

<b>Committee(s):</b> Civic Affairs Committee – For Decision	<b>Dated:</b> 11 <sup>th</sup> October 2022
<b>Subject:</b> Member's Code of Conduct	<b>Public</b>
<b>Which outcomes in the City Corporation's Corporate Plan does this proposal aim to impact directly?</b>	
<b>Does this proposal require extra revenue and/or capital spending?</b>	<b>Y/N</b>
<b>If so, how much?</b>	<b>£</b>
<b>What is the source of Funding?</b>	
<b>Has this Funding Source been agreed with the Chamberlain's Department?</b>	<b>Y/N</b>
<b>Report of:</b> Member's Code of Conduct	<b>For Decision</b>
<b>Report author:</b> Michael Cogher, The Comptroller and City Solicitor and Monitoring Officer	

## Summary

### 1. Synopsis

- 1.1 This report presents the Corporation's current Code of Conduct for Members for review against the Model Code of Conduct produced by the Local Government Association ("LGA").

### 2. Recommendations

- 2.1 That Members consider the LGA Code against the Corporation's Code, and in particular:
- (i) Whether to recommend to Policy and Resources and the Court of Common Council that the LGA Code be adopted with or without modification; or
  - (ii) Whether to retain the existing Code with or without modification and in the former case to make the appropriate recommendation to Policy and Resources and the Court of Common Council.

### 3. Background

- 3.1 Under s.27 of the Localism Act 2011 ("the Act") the Corporation is under a statutory duty to promote and maintain high standards of conduct by members and co-opted members.
- 3.2 Under S.28 of the Act the Corporation is required to have in place a code of conduct setting out the conduct expected of elected and co-opted members of the Corporation together with a mechanism to allow complaints to be considered and determined.

- 3.3 The Act replaced the previous standards arrangements and Model Code of Conduct under the Local Government Act 2000, which had operated between 2002 and 2012, with a de-centralised and “localist” system under which there is no national code of conduct for local authority members.
- 3.4 Instead, each relevant authority must adopt its own code consistent with the Principles of Public Life including provisions in relation to pecuniary and other interests.
- 3.5 The Principles of Public Life, which are not further defined in the legislation, are:
  - (a) Selflessness
  - (b) Integrity
  - (c) Objectivity
  - (d) Accountability
  - (e) Openness
  - (f) Honesty
  - (g) Leadership
- 3.6 Guidance issued dated 31<sup>st</sup> May 1995 provides some definitions of the Principles (see **Appendix 1**) which are incorporated into the Corporation’s Code.
- 3.7 In 2012 the DCLG (the predecessor of the Department of Levelling Up, Housing and Communities) and the LGA both produced example Codes. The Corporation initially adopted the very “light touch” DCLG Code which was substantially strengthened in 2014. The last review of the Corporation’s Code of Conduct took place on 16<sup>th</sup> July 2020, when the Court of Common Council approved the addition of provisions relating to anti-Semitism. Proposals for the incorporation of definitions of bullying and harassment were dropped. The Court report is attached at **Appendix 2**.
- 3.8 The Corporation’s current Code is attached at **Appendix 3**. Whilst the statutory obligations under the Act only apply to the Corporation in its capacity as a local authority it has traditionally applied the Code of Conduct across all its functions.
- 3.9 In January 2019 the Committee on Standards in Public Life published its Review on Local Government Ethical Standards:  
<https://www.bing.com/ck/a?!&p=54d593d6647089b3JmltdHM9MTY1OTM4MDE1OCZpZ3VpZD0wZTUyNWwNjYy1mN2YxLTRlYzltYmE5Yy1jZiRhMGI5ODZhOGYmaW5zaWQ9NTE3OA&ptn=3&hsh=3&fclid=588f588e-11cb-11ed-9894-d11c2fa2c3a8&u=a1aHR0cHM6Ly93d3cuZ292LnVrL2dvdMvYbm1lbnQvY29sbGVjdGlvbNmbG9jYWwtZ292ZXJubWVudC1ldGhpY2FsLXN0YW5kYXJkcw&ntb=1>

- 3.10 The Committee noted that “there is considerable variation in local authority codes of conduct. Some of this is straightforward variation in structure and wording, but there is also considerable variation in length, breadth, clarity and detail”.
- 3.11 It went on to note that this variation can cause confusion in areas with multiple tiers of local government, for example where members sit on both a County and a District Council.
- 3.12 Accordingly, its first recommendation (Recommendation 1) was that the LGA should create an updated model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government.
- 3.13 The LGA duly created and consulted on a new Model Code of Conduct which was published in January 2021. A copy of the LGA Code is attached at **Appendix 4**.
- 3.14 The Government’s response to the Report was published on 18<sup>th</sup> March 2022 [LGA Model Member Code of Conduct: Consultation response analysis, November 2020 | Local Government Association](#) and in relation to Recommendation 1 it responded:
- 3.15 “It is for individual councils to set their own local code, in line with the Act. The Government has previously published a light-touch illustrative code of conduct. The Local Government Association has worked with sector representative bodies to update its own suggested code of conduct, with the intention that this new suggested code could establish a consistent benchmark that local authorities can amend or add to as they see fit to reflect local circumstances and priorities. The Local Government Association published the updated code of conduct in January 2021. However, it remains a local decision on whether this model code is adopted”.

#### **4. The LGA Code**

- 4.1 Whilst the LGA Code does not differ from the Corporation’s Code in broad effect it contains some significant differences in style and emphasis, being arguably more modern and accessible, together with a commitment to mandatory training, for example:
- A clear statement that support, training, and mediation is encouraged prior to taking action using the Code (Introduction)
  - A more detailed explanation of the concept of “respect” and the limits of legitimate challenge (Paragraph 1)
  - A more detailed explanation of bullying, discrimination, and harassment, including the incorporation of the ACAS definition of bullying, previously not adopted by the Corporation (Paragraph 2)
  - A more detailed explanation of the relationships with officers (Paragraph 3)
  - A more detailed explanation in relation to dispute (Paragraph 5)

- A mandatory training undertaking and specific undertakings in relation to co-operation with investigations etc. (Paragraph 8)

## **5. Comments of the Monitoring Officer**

5.1 The Corporation is under a statutory duty to promote and maintain high standards of conduct. It is also under a statutory duty to secure continuous improvement in the way in which its functions are exercised. The Sub-committee should therefore consider whether the adoption of the LGA Code, with or without modification is likely to contribute to the improvement of the promotion and maintenance of high standards of Member conduct within the Corporation.

5.2 Considerable work has been invested in the Corporation's Code over many years and it remains fit for purpose.

However, the LGA Code is arguably more modern in its approach, incorporates more examples and is written in plain English. Corporation specific issues, such as our list of non-pecuniary interests could easily be incorporated and areas of potential controversy e.g., compulsory training could be deleted.

5.3 The Corporation is a unitary authority and does not have "two tier" issues although a number of members are involved in local authorities.

5.4 As the Government response states, the adoption of the LGA Code is entirely a matter for individual local authorities. A "straw poll" of its 23 members in January 2022 by the London Boroughs' Legal Alliance, of which the Corporation is a member, revealed not only a disappointing response rate but no consistency across respondent London Boroughs (see **Appendix 5**). However, there may be some advantage in the Corporation adopting what can be regarded as the benchmark of good practice.

5.5 Were the Sub-committee to be minded to make any changes to the Corporation's Code it should consider undertaking appropriate consultation with affected members and co-opted members and the Independent Standards Panel.

## **6. Conclusion**

6.1 Finally, it should be noted that the statement in the LGA Code that the Monitoring Officer has a statutory responsibility for the implementation is not strictly correct. The Corporation has the statutory responsibility both for the Code and for ensuring that there is a mechanism in place for complaints to be determined. The Monitoring Officer has a statutory duty to report to the Court if he considers that the Corporation has failed to comply with these obligations.

## **Appendices**

1. Definitions of Principles
2. Updated Code of Conduct
3. The Corporation's current Code
4. The LGA Model Councillor Code
5. Legal Alliance response

### **Michael Cogher**

Comptroller and City Solicitor and Monitoring Officer  
Comptroller and City Solicitor's Department

**T:** 020 7332 3699

**E:** [Michael.cogher@cityoflondon.gov.uk](mailto:Michael.cogher@cityoflondon.gov.uk)