

<b>Committee(s)</b> Civic Affairs Sub-Committee	<b>Date:</b> 6 December 2022
<b>Subject:</b> Members' 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>6</b>
<b>Does this proposal require extra revenue and/or capital spending?</b>	<b>No</b>
<b>Report of:</b> Comptroller and City Solicitor and Town Clerk and Chief Executive	<b>For Decision</b>
<b>Report author:</b> Edward Wood, Chief Solicitor	

### Summary

Your Sub-Committee reviewed the Corporation's current Members' Code of Conduct and the Local Government Association ("LGA") Model Councillor Code of Conduct in October 2022. Members expressed a preference to adopt a new hybrid Code combining the more modern drafting of the LGA Code with some of the City specific elements from the Corporation's current Code. A first draft of a potential Code is attached for comment and some particular areas for discussion are highlighted in this report. Any proposed new Code will need to be the subject of a wider consultation process before going on to the Policy and Resources Committee and the Court of Common Council for adoption.

### Recommendation(s)

Members are asked to provide comments on the draft Code and in particular:

- To confirm that the Code should continue to apply to all of the Corporation's functions and to all of its Members and external Members;
- To consider the new provision in relation to charities;
- To consider whether there should be mandatory Code of Conduct training;
- To confirm whether the minimum value for gifts and hospitality that must be registered should remain at £100, or be reduced to £50;
- To consider whether the existing provisions about cumulative gifts or hospitality worth £200 or more should be retained or not;

- To confirm that the special arrangements for the Lord Mayor and Sheriffs in relation to gifts and hospitality should be retained;
- To consider the registration of 'other' interests in Table 2 and otherwise;
- To consider appropriate arrangements for declarations and participation in meetings where interests are engaged;
- To confirm that the IHRA definition of Antisemitism should be retained;
- To confirm the arrangements for further consultation.

## **Main Report**

### **Background and general comments**

1. Your Sub-Committee reviewed the Corporation's current Members' Code of Conduct (Appendix 3) and the LGA Model Councillor Code of Conduct (Appendix 4) in October 2022. Members expressed a preference to adopt a new hybrid Code combining the more modern and illustrative drafting of the LGA Code with some of the City specific elements from the Corporation's current Code. A first draft of a potential Code is attached for comment (Appendix 1) and a separate document highlighting all of the modifications made to the LGA Code as tracked changes is also included for information (Appendix 2).
2. A lot of the amendments are simply to do with terminology e.g substituting "Member" for "councillor" and "Corporation" for "local authority". Changes have also been made at various points to reflect the fact that the Town Clerk has traditionally given advice on Code of Conduct matters and played a major role in the registration of interests at the Corporation, supplementing the role of the Monitoring Officer.
3. As requested, paragraph numbers have also been inserted throughout. For ease of cross-referencing, the existing LGA numbering for the main Code provisions has been retained, differentiated with a 'C' prefix. However, it has not been a straightforward conversion in all cases, and some more significant changes and areas for discussion are highlighted below.

### **Main modifications to the LGA Code and additional options**

#### **Introduction**

4. The LGA Joint Statement has been omitted and elements of the LGA Introduction and Definitions incorporated into a shorter Corporation specific Introduction (paragraphs 1-4). It has been assumed that the Corporation wishes to continue to apply the Code to all of its functions and to all of its external Members, whether voting or not.

## Charities

5. Given the number of charities that the Corporation is connected with – many more than a typical local authority – it is proposed to add a specific provision in relation to this. An additional reference to Members acting in the best interests of those charities and managing any conflicts of interest or loyalty has therefore been included (C6.2) as well as some explanatory text highlighting the need to comply with any conflicts of interest policy (paragraph 29).
6. With the grant of the Supplemental Charter for Bridge House Estates there will be a requirement to have a conflicts of interest policy and to comply with it. This was something that was of particular interest to the Privy Council Office's advisors in consultation on the draft Charter. It is also envisaged that there will in time be a separate conflicts of interest policy for the open spaces, etc. There was felt to be some synergy between these matters and C6.1, and therefore the charities text has been included at that point, but equally it could be included in a separate section.

## Training

7. It was referenced at your Sub-Committee's previous meeting that the Corporation has previously resisted mandatory Code of Conduct training, as suggested by the LGA. Alternative options have therefore been provided at C8.1, with the second option simply being that Members should familiarise themselves with the Code, and Member views on this are sought.

## Gifts and hospitality

8. The Standards Committee previously considered the issue of gifts and hospitality several times and had settled upon £100 as a reasonable minimum value for registration, notwithstanding the Committee on Standards in Public Life ("CSPL") previously recommending the lower figure of £50. However, as the LGA are again proposing that gifts worth £50 or more should be registered, alternative options have been provided at C10.2, and Members are asked to confirm their views on this.
9. The Corporation's current Code also includes a requirement to register gifts and hospitality with a cumulative value of £200 or more. This was another recommendation of the CSPL (based on the lower figure of £100). However, this requirement does not feature in the LGA Code, and it might be an opportunity to simplify the Corporation's arrangements, particularly if the minimum values were to be reduced. A provision in relation to cumulative values has not been included in the current draft, but again, Members are asked to confirm their views on this.
10. The Corporation's current Code also states that special provision shall be made for the Lord Mayor and other holders of special offices in Guidance to be issued by the Standards Committee. Guidance has previously been published in relation to the Lord Mayor and Sheriffs and it is assumed that Members will want to retain this, under the jurisdiction of your Sub-Committee (paragraph 37), but confirmation is requested.

## Registering 'other' interests – Appendix B

11. The LGA Table 2 has been amalgamated with the list of 'other interests' from the Corporation's current Code. It is proposed to exclude those charities, etc. that the Corporation manages through its Committee structure (because this is not felt to add anything to the information that is already publicly available) but include any appointments to outside bodies. Paragraph 7(j) from the Corporation's current Code (management of any organisation not falling within any other category) has been omitted as potentially being unnecessarily wide, but Member views on this are invited.
12. However, it is proposed to keep the 'catch-all' provision from the Corporation's current Code about registering any other pecuniary or non-pecuniary interest as necessary in order to conform with the Seven Principles of Public Life (Appendix B, paragraph 1) because this avoids the need to try to specify a number of additional scenarios, as in the LGA Code (see below).

## Declaring interests and participation – Appendix B

13. It is proposed to largely retain the provisions from the Corporation's current Code in relation to declarations and participation (Appendix B, paragraphs 5-6). This is because there are some issues with the LGA Code, which goes beyond the legal requirements in several respects:
  - (i) It requires a Member with a disclosable pecuniary interest ("DPI") or any other relevant interest to leave the room, unless they have a dispensation. The Corporation's existing arrangements only requires a Member to leave the room if their continued presence is incompatible with the Code or the Seven Principles of Public Life.
  - (ii) The LGA Code prohibits almost all participation, even in relation to non-statutory/non-pecuniary interests, whereas the Corporation's current Code requires a case by case assessment based on the danger of bias. The LGA approach is not thought to be workable for the Corporation when combined with their definition of 'other interests'.
  - (iii) The LGA Code requires a declaration in every case, even where an interest is already registered. Whilst the Corporation's Guidance currently states that this is good practice, it may not be desirable for a lapse to amount to a breach of the Code when this is not a statutory requirement.
  - (iv) The LGA Code reintroduces the interests of a friend, relative or close associate, which were included in the previous statutory regime under the Local Government Act 2000, but omitted from the Localism Act 2011. This is arguably needlessly complicated, citing various tests that are not actually included in the legislation, which solely concerns a Member or their partner having a DPI in any matter considered. It is felt that the 'catch-all' provision at Appendix B, paragraph 1 is capable of picking up any other interests of concern, in conjunction with C6.

(v) The LGA Code also makes reference to Members' financial interests that are not DPIs, but the list of DPIs is actually felt to be pretty comprehensive, so it is not easy to envisage such a scenario. Again, if there was such an interest, it would be caught by the 'catch-all' provision at Appendix B, paragraph 1, in conjunction with C6.

(vi) The LGA Code doesn't include any explicit implications where gifts and hospitality have been received.

14. However, the Sub-Committee's views on the above matters are sought, and if Members prefer the LGA treatment of any of the above matters then the relevant text can be incorporated into a later iteration of the draft Code.

#### IHRA Definition of Antisemitism – Appendix C

15. It is assumed that Members will want to retain the IHRA definition of Antisemitism, which was previously inserted into the Corporation's Code. It is proposed to leave out Appendix C to the LGA Code, relating to the CSPL. This is because the CSPL recommendations do not reflect the current legal position and the Government has shown no signs of adopting them. The CSPL best practice recommendations have largely already been incorporated, either in the Code or the Corporation's other standards arrangements, and others are not applicable to the Corporation.

#### **Consultation and next steps**

16. Once your Sub-Committee is happy with the draft Code, it will be necessary to consult more widely on the proposals, to include as a minimum all Members and Co-opted Members to whom the Code applies and the Panel of Independent Persons. Once the consultation is complete the proposals can be reported to the Policy and Resources Committee and the Court of Common Council for formal adoption.

#### **Conclusion**

17. Members previously expressed a preference to adopt a new Code of Conduct, combining the LGA Code with some elements of the Corporation's current Code. A first draft of a potential Code is attached for consideration and comment. Once your Sub-Committee is content with the text it will need to be the subject of a wider consultation process before going on to the Policy and Resources Committee and the Court of Common Council for adoption.

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## **Appendices**

**Appendix 1 – Draft Code of Conduct**

**Appendix 2 – Draft Code of Conduct showing tracked changes from LGA Code  
(TO FOLLOW)**

**Appendix 3 – Current Corporation Code of Conduct**

**Appendix 4 – LGA Code**

## **Background papers**

Report to the Civic Affairs Sub-Committee dated 11 October 2022