

<b>Committee(s)</b> Civic Affairs Sub-Committee	<b>Date:</b> 31 March 2023
<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, together with a report highlighting some particular areas for discussion, was considered by your Sub-Committee on 6 December 2022. Having provided feedback across a range of issues, Members requested that a further report be brought back, presenting an updated Code of Conduct for their further consideration and review. 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 further comments on the latest version of the draft Code and in particular:

- To consider whether there should be mandatory Code of Conduct training;
- To consider appropriate arrangements for declarations and participation in meetings where interests are engaged;
- To confirm the arrangements for further consultation.

## **Main Report**

### **Background**

1. Your Sub-Committee reviewed the Corporation's current Members' Code of Conduct and the LGA Model Councillor Code of Conduct 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, together with a report highlighting some particular areas for discussion, was considered by your Sub-Committee on 6 December 2022.
2. At that meeting, certain relatively straightforward changes to the LGA code were noted, including a shorter more tailored introduction, the insertion of paragraph numbers throughout (whilst retaining the existing LGA numbering for the main Code provisions), and changes in terminology such as substituting "Member" for "councillor" and "Corporation" for "local authority". It was also noted that changes had 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. The initial feedback provided at the meeting was that:
  - The Code of Conduct should continue to apply to all of the City Corporation's functions and to all of its Members and external Members, whether voting or not;
  - There was agreement on the inclusion of a new provision in relation to charities;
  - There was support for the minimum value for gifts and hospitality that must be registered remaining at £100;
  - The retention of the existing provisions around cumulative gifts or hospitality worth £200 or more was endorsed;
  - There was agreement on retaining the special arrangements for the Lord Mayor and Sheriffs in relation to gifts and hospitality, and it was suggested that these arrangements might also be extended to the Policy Chair;
  - Members were content with the updated list of 'other' registerable interests as set out in Table 2 of the draft Code;
  - There was support for retaining the International Holocaust Remembrance Alliance (IHRA) definition of Antisemitism.

## **Remaining issues**

4. An updated draft Code that reflects the previous discussions is attached (Appendix 1). A separate document highlighting all of the modifications made to the LGA Code as tracked changes is included for comparison (Appendix 2). The Corporation's current Members' Code of Conduct (Appendix 3) and the LGA Model Councillor Code of Conduct (Appendix 4) are also attached in full again for information.

## **Training**

5. It was referenced in the previous report that the Corporation has up until now resisted mandatory Code of Conduct training, as suggested by the LGA. No conclusion was reached in relation to this issue at your Sub-Committee's last meeting, and therefore alternative options in relation to training are still shown at C8.1 in the draft Code, on which Member views are sought. The text from the LGA Code states that, "I undertake Code of Conduct training provided by the Corporation" with the alternative option simply stating that "I familiarise myself with the Code of Conduct".
6. There was a consensus view at your last meeting on the need for an appropriate level of training being available to all Members. It was noted that all Members of the Planning and Transportation Committee were required to complete mandatory training on planning issues. The potential for introducing a Standing Order requiring all Members to have similarly undertaken Code of Conduct training before they could be appointed to any Committee was also discussed. The Town Clerk was asked to provide some data on the percentage of Members who had previously undertaken voluntary Code of Conduct training, prior to your Sub-Committee considering the matter further.
7. The information received is that the most recent round of training on the Code of Conduct offered to both new and returning Members from April – June 2022 was attended by a total of 17 Members across the three sessions.

## **Declaring interests and participation**

8. The other issue deferred from your previous meeting relates to the arrangements for declaring interests and participating in meetings where interests are engaged. 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 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 the 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.
9. 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.

### **Consultation and next steps**

10. 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**

11. 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 was considered by your Sub-Committee on 6 December 2022. An updated draft Code is now attached for further 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**

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

**Appendix 4 – LGA Code**

**Background papers**

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

Report to the Civic Affairs Sub-Committee dated 6 December 2022