

North Tyneside Council

Report to Standards Committee

Date: 8 April 2021

ITEM

Title: LGA Model Code of Conduct

Report from Service

Area: Law and Governance

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Wards affected: All

1.1 Purpose:

To inform the Committee of the Local Government Association's (LGA) Model Code of Conduct and set out the differences between the model and the Authority's current Code of Conduct.

1.2 Recommendation(s):

It is recommended that the Committee establish a Working Group, supported by the Monitoring Officer and his team to consider the LGA's model against the Authority's current Code of Conduct, and make recommendations as to whether any amendments should be made to that Code of Conduct.

1.3 Information

In 2020 the LGA drafted a Model Member Code of Conduct as part of its work in supporting the sector to continue to aspire to high standards of leadership and performance.

All authorities are required to have a Code of Conduct and the LGA has developed its model code in consultation with the sector, with the purpose of assisting councillors to model the behaviour expected of them and to protect both councillors and councils.

The LGA has indicated that it will review its model annually to ensure that it continues to be fit-for purpose, particularly with regards to advances in technology, social media and any changes in legislation.

The differences between the two codes are set out in the table below. The full codes are appended to this report for reference.

It is recommended that the Committee establish a Working Group, supported by the Monitoring Officer and his team to consider the LGA's model against the current Code of Conduct, and make recommendations as to whether any amendments should be made.

If the Committee acts on this recommendation, the Working Group will be required to report back to a future meeting of the Committee. If the Group recommends that changes are made and the Committee accepts these recommendations, the Committee would

refer the proposed changes to the Constitution Task Group, and then onto Full Council for approval and adoption.

It is suggested that a Working Group of up to 4 members of the Committee be established in accordance with the political balance of the Authority.

Table illustrating the differences between the Authority's current Code of Conduct and the LGA Model Code

Difference	North Tyneside Code	LGA Model Code
Definition of councillors	North Tyneside Council ("the Authority") has adopted the following code which has effect from 4 July 2012 and which sets out the conduct that is expected of elected and co-opted members of the Authority when they are acting in that capacity.	"For the purposes of this Code of Conduct, a "councillor" means a member or co-opted member of a local authority or a directly elected mayor."
Definition of co-opted members	"Co-opted member' means any person who is a member of any committee or sub-committee of the Authority with a right to vote but who is not one of its elected members."	"A "co-opted member" is defined in the Localism Act 2011 Section 27(4) as "a person who is not a member of the authority but who a) is a member of any committee or sub-committee of the authority, or; b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority; and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee".
Definition of local authorities	None given	"For the purposes of this Code of Conduct, "local authority" includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities."
Purpose of code	None given	"The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is

		<p>expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.”</p>
<p>Seven Nolan principles</p>	<p>“The code is intended to be consistent with Nolan’s Seven Principles of Public Life, and should be read in the light of those principles, namely that Authority Members will act with selflessness, integrity, objectivity, accountability, openness, honesty and leadership. Those Principles are not part of this Code but are set out in full at Annex 1 for information.”</p>	<p>“Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the Seven Principles of Public Life, also known as the Nolan Principles. Building on these principles, the following general principles have been developed specifically for the role of councillor.</p> <p>In accordance with the public trust placed in me, on all occasions:</p> <ul style="list-style-type: none"> • I act with integrity and honesty • I act lawfully • I treat all persons fairly and with respect; and • I lead by example and act in a way that secures public confidence in the role of councillor. <p>In undertaking my role:</p> <ul style="list-style-type: none"> • I impartially exercise my responsibilities in the interests of the local community • I do not improperly seek to confer an advantage, or disadvantage, on any person • I avoid conflicts of interest • I exercise reasonable care and diligence; and • I ensure that public resources are used prudently in accordance with my local authority’s requirements and in the public interest.”

Application of code	This means the code applies whenever you (a) conduct the business of the Authority (including the business of your office as an elected councillor or co-opted member) or (b) act, claim to act or give the impression you are acting as a representative of the Authority.	<p>“This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor. This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:</p> <ul style="list-style-type: none"> • you misuse your position as a councillor • Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor; <p>The Code applies to all forms of communication and interaction, including:</p> <ul style="list-style-type: none"> • at face-to-face meetings • at online or telephone meetings • in written communication • in verbal communication • in non-verbal communication • in electronic and social media communication, posts, statements and comments. <p>You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor. Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.”</p>
Existence of obligations and consequences	The expectations are not expressly described as	“This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor.

	obligations and there is no reference to the potential consequences of failure to adhere to code.	Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.”
General conduct point 1 – respect	“1. You must treat others with respect, including Authority officers and other elected members.”	1. Respect 1.1 I treat other councillors and members of the public with respect. 1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.
General conduct point 2 - bullying	“You must not bully any person (including specifically any Authority employee) and you must not intimidate or improperly influence, or attempt to intimidate or improperly influence, any person who is involved in any complaint about any alleged breach of this code of conduct.”	2. Bullying, harassment and discrimination 2.1 I do not bully any person. 2.2 I do not harass any person. 2.3 I promote equalities and do not discriminate unlawfully against any person.
Point 3 – impartiality	“You must not do anything which compromises or is likely to compromise the impartiality of anyone who works for or on behalf of the Authority.”	3. Impartiality of officers of the council 3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.
Point 4 in NTC code / point 5 in LGA model - disrepute	“4. You must not conduct yourself in a manner which could reasonably be regarded as bringing the Authority, or your office as a member of the Authority, into disrepute.”	5. Disrepute 5.1 I do not bring my role or local authority into disrepute.
Point 5 in NTC code / point 6 in LGA	“5. You must not use or attempt to use your position as a member	6. Use of position

model – improper use of position	improperly to confer on or secure for yourself or any other person any advantage or disadvantage.”	6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.
Point 6 in NTC code / point 8 in LGA model - compliance	<p>“6. You must comply with any Protocol adopted by the Authority which seeks to regulate the conduct of its elected members or co-opted members and which the Authority has specifically declared should fall within the provisions of this code of conduct and which is listed in Annex 4 to this Code.”</p> <p>Annex 4 does not currently list any Protocols to comply with – it says: “Associated Protocols The Authority has adopted the following Protocols which are intended to regulate the conduct of its elected members or co-opted members and which the Authority has specifically declared should fall within the provisions of this code of conduct pursuant to paragraph 6 of the code: [None]”</p>	<p>8. Complying with the Code of Conduct</p> <p>As a councillor:</p> <p>8.1 I undertake Code of Conduct training provided by my local authority.</p> <p>8.2 I cooperate with any Code of Conduct investigation and/or determination.</p> <p>8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.</p> <p>8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.</p>
Point 7 – use of resources	“7. When using or authorising the use by others of the resources of the Authority, you must act in accordance with the Authority’s reasonable requirements (as set out in such protocol as	<p>7. Use of local authority resources and facilities</p> <p>As a councillor:</p> <p>7.1 I do not misuse council resources.</p>

	<p>it may adopt from time to time for these purposes) and must ensure they are not used for party political purposes.”</p>	<p>7.2 I will, when using the resources of the local or authorising their use by others:</p> <ul style="list-style-type: none"> a. act in accordance with the local authority's requirements; and b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.
<p>Points 8 and 9 in NTC code / point 4 in LGA code – information and confidentiality</p>	<p>“8. You must not prevent, or attempt to prevent, another person from gaining access to information to which they are entitled by law.”</p> <p>AND</p> <p>“9. You must not disclose information which is given to you in confidence, or information which you believe or ought reasonably to be aware is of a confidential nature, unless:</p> <ul style="list-style-type: none"> (a) You have the consent of a person authorised to give it; or (b) You are required by law to do so; or (c) The disclosure is made to a third party for the purpose of obtaining professional advice, provided that the third party agrees not to disclose the information to any other person; or 	<p>4. Confidentiality and access to information</p> <p>As a councillor:</p> <p>4.1 I do not disclose information:</p> <ul style="list-style-type: none"> a. given to me in confidence by anyone b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless <ul style="list-style-type: none"> i. I have received the consent of a person authorised to give it; ii. I am required by law to do so; iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or iv. the disclosure is: 1. reasonable and in the public interest; and 2. Made in good faith and in compliance with the reasonable requirements of the local authority; and 3. I have consulted the Monitoring Officer prior to its release. <p>4.2 I do not improperly use knowledge gained solely as a result of my role as</p>

	(d) The disclosure is reasonable and in the public interest and made in good faith.”	a councillor for the advancement of myself, my friends, my family members, my employer or my business interests. 4.3 I do not prevent anyone from getting information that they are entitled to by law.
Point 10 in NTC code – Overview, Scrutiny and Policy Development Committee	“10. Where you have been involved in making any decision by the Authority which is subsequently subject to scrutiny by an Overview, Scrutiny and Policy Development committee of the Authority, you must not take part in that scrutiny process except to the extent you may be invited by the committee to give evidence to, or otherwise assist, it. In this paragraph, ‘scrutiny’ means the formal examination of a policy or decision previously approved or taken by or on behalf of the Authority in order to reach a view as to its merits or effectiveness. “	Not included
Point 11 in NTC code – equality laws	“11. You must not do anything that would cause you to breach any equality laws. For example, you must not make sexist and/or racist remarks.”	This is incorporated into the guidance for Point 2 of the LGA code (bullying and harassment)
Point 12 in NTC code – reporting information	“12. You must report any suspicion you have or any intelligence/information you have received on any safeguarding issue regarding children or vulnerable	Not included

	adults, including potential or actual sexual exploitation, to the Authority and where appropriate the Police. “	
Registration of interests / gifts and hospitality	Parts 2, 3 and 4 of NTC’s code, as well as Annex 2 and Annex 3.	Points 9 and 10 of the general conduct section under the sub-heading “Protecting your reputation and the reputation of the local authority”, as well as Appendix B, Table 1 and Table 2.
Committee on Standards in Public Life recommendations	Not included.	Set out in Appendix C.

1.4 Appendices:

Appendix 1: LGA’s model code of conduct.
Appendix 2: NTC’s current code of conduct.

1.5 Contact officers:

John Barton, Lawyer, Law and Governance (0191) 643 5354

1.6 Background information:

Code of Conduct for Members and Co-opted Members
The Localism Act 2011