

LGA – Consultation on Model Code of Conduct

Draft response of the Ethical Standards & Member Development Committee

Q1. To what extent do you support the proposal that councillors demonstrate the behaviours set out in the Code when they are publicly acting as, identifying as, and/or giving the impression that they are acting as a councillor, including when representing their council on official business and when using social media?

o To a great extent

o To a moderate extent

o To a small extent

o Not at all

o Don't know/prefer not to say

Q1a. If you would like to elaborate on your answer please do so here:

Greater clarity is required as to when the Code applies. As drafted there is no distinction between a councillor's private and public life.

More specific guidance and examples would be helpful for members of the public and Elected Members.

Does "or if there are potential implications for the council's reputation" mean the same as bringing the Council into disrepute? If not, the difference needs to be explained

If there is a presumption that councillors are acting in this capacity, this is presumably a rebuttable presumption that would place the onus on the councillor to prove that they were not acting in that capacity? If it is a rebuttable presumption, then that should be made clear.

The code refers to the use of social media but more specific guidance is required in relation to social media, its use and how members should conduct themselves, particularly when dealing with aggressive and/or abusive persons.

Q2. Is it sufficiently clear which parts of the Model Code are legal requirements, which are obligations, and which are guidance?

Yes

No

Don't know

Q3. Do you prefer the use of the personal tense, as used in the Code, or would you prefer the passive tense?

Personal tense (“I will”)

Passive tense (“Councillors should”)

No preference

Specific obligations The Code lists 12 specific obligations – these set out a minimum standard councillors are asked to adhere to. Each obligation or group of obligations is put into a wider context to explain why that particular obligation is important.

Q4. To what extent do you support the 12 specific obligations?

a. Treating other councillors and members of the public with civility.

- To a great extent**
- To a moderate extent
- To a small extent
- Not at all
- Don't know/prefer not to say

b. Treating council employees, employees and representatives of partner organisations and those volunteering for the councils with civility and respecting the role that they play.

- To a great extent**
- To a moderate extent
- To a small extent
- Not at all
- Don't know/prefer not to say

c. Not bullying or harassing any person.

- **To a great extent**

- To a moderate extent
- To a small extent
- Not at all Don't know/prefer not to say

d. Not compromising, or attempting to compromise, the impartiality of anyone who works for, or on behalf of, the council.

- **To a great extent**

- To a moderate extent
- To a small extent
- Not at all
- Don't know/prefer not to say

e. Not disclosing information given to me in confidence or disclosing information acquired by me which I believe is of a confidential nature, unless I have received the consent of a person authorised to give it or I am required by law to do so.

- **To a great extent**

- To a moderate extent
- To a small extent
- Not at all
- Don't know/prefer not to say

f. Not preventing anyone getting information that they are entitled to by law.

- **To a great extent**

- To a moderate extent
- To a small extent
- Not at all
- Don't know/prefer not to say

g. Not bringing my role or council into disrepute.

- **To a great extent**

- To a moderate extent
- To a small extent
- Not at all
- Don't know/prefer not to say

h. Not using, or attempting to use, my position improperly to the advantage or disadvantage of myself or anyone else.

- **To a great extent**
- To a moderate extent
- To a small extent
- Not at all
- Don't know/prefer not to say

Q6. Would you prefer to see the obligations as a long list followed by the guidance, or as it is set out in the current draft, with the guidance after each obligation?

- As a list
- Each specific obligation followed by its relevant guidance**
- No preference

Q7. To what extent do you think the concept of 'acting with civility' is sufficiently clear?

- To a great extent
- To a moderate extent
- To a small extent**
- Not at all
- Don't know/prefer not to say

Q7a. If you would like to suggest an alternative phrase that captures the same meaning, or would like to provide a comment on this concept, please do so here:

The use of the word 'respect' is better understood by Elected members and the public than the word 'civility'.

Civility is a vague concept and attracts wider interpretation which is unlikely to be helpful in ensuring the standards expected of those in public office are clear and easily understood.

It is possible to be both civil and disrespectful which undermines the whole purpose of this obligation.

Q8. To what extent do you think the concept of 'bringing the council into disrepute' is sufficiently clear?

To a great extent

To a moderate extent

To a small extent

Not at all

Don't know/prefer not to say

Q8a. If you would like to suggest an alternative phrase that captures the same meaning, or would like to provide a comment on this concept, please do so here:

No. As with the use of the word 'respect', this obligation is clear and understood.

Q9. To what extent do you support the definition of bullying and harassment used in the code in a local government context?

To a great extent

To a moderate extent

To a small extent

Not at all

Don't know/prefer not to say

Q9a. If there are other definitions you would like to recommend, please provide them here.

None.

Q10. Is there sufficient reference to the use of social media?

Yes

No

Don't know/prefer not to say

Q10a. Should social media be covered in a separate code or integrated into the overall code of conduct?

o Separate code

o Integrated into the code

o Don't know/prefer not to say

Q10b. If you would like to make any comments or suggestions in relation to how the use of social media is covered in the code please do so here:

The code needs to explicitly address social media use and engagement.

Social media has many advantages and is a key engagement tool that bring with it many benefits to the public and Elected Members. Social media needs to be embraced and utilised with confidence.

However, the use of social media needs to meet the same standards as communication in other platforms. Consideration should be given to aligning the code and guidance with the guidance given to MPs on using social media (i.e. Twitter).

The code or guidance should explicitly deal with how Elected Members should deal with aggressive and abusive persons and how unfair, inaccurate and offensive commentary by others about the Elected Member should be addressed.

Clarification should also be provided as to whether as to the presumption that an Elected Member is acting in their councillor capacity applies when engaging in social media, given the wide ranging discussions/commentaries that take place on social media.

Registration and declarations of interests - The law at present requires, as a minimum, registration and declaration of 'Disclosable Pecuniary Interests' - that is matters which directly relate to the councillor and their partner if applicable. The LGA is proposing that all councillors are required to declare interests where matters also relate to or affect other family members or associates. The LGA has broadened the requirement to declare interests beyond this current statutory minimum in line with a recommendation from the Committee on Standards in Public Life. These specific provisions are set out in Appendix B of the Code.

Q11. To what extent do you support the code going beyond the current requirement to declare interests of the councillor and their partner?

To a great extent

To a moderate extent

To a small extent

Not at all Don't know/prefer not to say

Q11a. If you would like to elaborate on your answer please do so here:

The Code should include 'relatives' and 'close associates' and 'financial and interest and well-being', however clear definitions should be provided in respect of each.

The public would expect such persons to be included in the Code in the interests of greater openness and transparency.

Q12. Should the requirement to declare interests be in the main body of the code or in the appendix where the draft model code currently references it?

In the main body of the code

In the appendix Other (please specify below)

Don't know/prefer not to say

Q12a. If you would like to make any comments or suggestions in relation to how the requirement to declare interests is covered in the code please do so here:

A wider definition of outside interests/bodies in respect of which an Elected Member is a member of or appointed to should be included in the Code.

The public would expect greater disclosure in the interests of openness and transparency.

Q13. To what extent do you support the inclusion of these additional categories for registration?

a. Any organisation, association, society or party of which you are a member or in a position of general control or management and to which you are appointed or nominated by the council

- **To a great extent**
- To a moderate extent
- To a small extent
- Not at all o Don't know/prefer not to say

b. Any organisation, association, society or party that exercises functions of a public nature of which you are a member or in a position of general control or management

- **To a great extent**
- To a moderate extent
- To a small extent
- Not at all
- Don't know/prefer not to say

c. Any organisation, association, society or party directed to charitable purposes

- **To a great extent**
- To a moderate extent
- To a small extent
- Not at all
- Don't know/prefer not to say

d. Any organisation, association, society or party of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

- **To a great extent**
- To a moderate extent
- To a small extent
- Not at all
- Don't know/prefer not to say

Q13a. If you would like to propose additional or alternative categories for registration, please provide them here:

Further clarity around declarations of interest for council owned companies would be welcomed.

Q14. To what extent do you support the proposed requirement that councillors do not accept significant gifts as set out in Obligation 11?

- **To a great extent**
- To a moderate extent
- To a small extent
- Not at all
- Don't know/prefer not to say

Q14a. If you would like to elaborate on your answer please do so here:

Promotes and maintains public trust and confidence in Elected Members and their decision making.

Q15. The draft code proposes £25 as the threshold for registering gifts and hospitality. Is this an appropriate threshold?

- Yes
- Yes, but the amount should be reviewed annually with the code's review
- No, it should be lower (please specify amount) _____
- No, it should be higher (please specify amount) - £100**
- Don't know/prefer not to say

Q16. The LGA will be producing accompanying guidance to the code. Which of the following types of guidance would you find most useful? Please rank 1-5, with 1 being the most useful.

Rank	Guidance
1	Regularly updated examples of case law
1	Explanatory guidance on the code
1	Case studies and examples of good practice
1	Supplementary guidance that focuses on specific areas, e.g., social media
1	Improvement support materials, such as training and e-learning packages

Q16a. If you would like to suggest any other accompanying guidance please do so here:

Additional guidance around council owned companies.

Q17. If you would like to make any further comments about the code please so here:

The sanctions remain insufficient for serious conduct breaches and need to be more robust otherwise the public's confidence democracy overall will potentially be undermined.

The bar on chairing advisory or special committees for up to two could be ineffective as not all Councils have such committees; or if they did, have little impact if they did not meet frequently enough. Unfortunately, this sanction highlights the 'toothless' nature of the sanctions available and demonstrates the need for a change in primary legislation to address this issue.

The LGA should lead on the development of the 'public interest test' which should form part of the guidance accompanying the Code.

It should be made clear that Elected Members must to cooperate with any standards investigation in a timely manner and comply with any sanctions imposed; and a failure to do so amounts to a breach of obligation 7 (Disrepute).

The Code and/or guidance needs to expressly require standards complaints to be dealt within a reasonable period of time.

It is unclear what is meant by 'to appeal allegations and decisions and allow for an escalating scale of intervention'. The unintended consequences of this need to be considered as it will inevitably lead to a matter being prolonged, potentially greater uncertainty and a conclusion taking longer to achieve.