

# Report to Ethical Standards and Member Development Committee

**12 March 2021**

<b>Subject:</b>	Review of Member Code of Conduct, the Arrangements for Dealing with Complaints under the Code and associated member policy/protocols
<b>Director:</b>	Surjit Tour – Director of Law and Governance and Monitoring Officer
<b>Contact Officer:</b>	Surjit Tour Surjit_Tour@sandwell.gov.uk

## 1 Recommendations

That:-

- 1.1 Council be recommended to approve the revised Member Code of Conduct, as set out in Appendix A;
- 1.2 Council be recommended to approve the revised Arrangements for Dealing with Complaints under the Code, as set out in Appendix B;
- 1.3 Council be recommended to approve the revised Social Media Policy and Incident Reporting Form, as set out in Appendix C;
- 1.4 the Director of Law and Governance and Monitoring Officer be authorised to make any revisions/updates to the guidance which accompanies the social media policy, in consultation with the Chair of the Ethical Standards and Member Development Committee;



- 1.5 in connection with social media and the duty to promote, a further report be submitted to the Ethical Standards and Member Development Committee in relation to promotion of good news and work of elected members/the Council (such as the Herald, on-line member pages, etc.);
- 1.6 Council be recommended to approve the revised Gifts and Hospitality Guidance, including the revised limit of declaration, as set out in Appendix D;
- 1.7 the Member Development Programme be updated to include:-
- training on the Code of Conduct, including scenario-based learning;
  - training in relation to the Arrangements for Dealing with Complaints, including scenario-based learning;
  - training/guidance on the use of social media, including scenario-based learning, and incorporate into Member PDPs any specific issues on an individual basis;
  - training on Member Interests and Gifts and Hospitality;
  - training on lobbying, with particular emphasis on quasi-judicial committees and to highlight the statutory and legal obligations of members sitting on these committees;
  - training on the duty to promote high standards;
- 1.8 the training/induction programme for new members be updated so as to include:-
- training on the Code of Conduct, which should also include scenario-based learning;
  - training in relation to the Arrangements for Dealing with Complaints under the Code, including scenario-based learning;
  - training/guidance on the use of social media, including scenario-based learning, and incorporate into Member PDPs any specific issues on an individual basis;









- training on Member Interest and Gifts and Hospitality;
  - training on lobbying, with particular emphasis on quasi-judicial committees and to highlight the statutory and legal obligations of members sitting on these committees;
  - training on the duty to promote high standards;
- 1.9 the retention policy for Members' Register of Interests be set for as long as a person remains a Councillor, plus three months which represents the relevant limitation period for disclosure of information;
- 1.10 Council be recommended to approve the protocol for meetings to take place on a regular basis between senior officers, group leaders and chief whips to talk about standards issues, as set out in Appendix E;
- 1.11 a review of the recruitment process for Independent Persons be undertaken, in consultation with the Standards Working Group, and a further report submitted to a future meeting of the Ethical Standards and Member Development Committee.
- 1.12 that a further report be submitted to the Ethical Standards and Member Development Committee/Standards Working Group in respect of DBS Basic Checks for elected members;
- 1.13 that a review of the composition of the Ethical Standards and Member Development Committee and operation be undertaken in the new municipal year and a further report be submitted;
- 1.14 that the template/process for reporting matters in relation to the Arrangements for Dealing with Complaints under the Code to the Ethical Standards and Member Development Committee, as set out in Appendix F, be approved;
- 1.15 that, in connection with recommendations 1.1, 1.2, 1.3, 1.4 and 1.6 above, the Director of Law and Governance and Monitoring Officer be authorised to update the Council's Constitution accordingly.



## 2 Reasons for Recommendations

- 2.1 Following a review, by the Standards Working Group, of the Member Code of Conduct, the Arrangements for Dealing with Complaints under the Code, the Social Media Policy and associated ethical framework policies/procedures, through a series of member engagement sessions, a series of recommendations have been prepared based on the information and feedback gathered.

## 3 How does this deliver objectives of the Corporate Plan?

		High standards of conduct are an essential part of good corporate governance and this in turn has a direct relationship with the delivery of high quality services.
		
		By ensuring that all complaints are dealt with fairly, ethical standards will be further enhanced and this will contribute to better corporate governance which underpins the delivery of high quality services.

## 4 Context and Key Issues

- 4.1 The Committee on Standards in Public Life carried out a review of local government ethical standards in 2018 and invited comments from local authorities and representative bodies. Sandwell provided comments as part of the consultation process. In January 2019, the Committee published a final report together with recommendations relating to local government ethical standards.

This included a recommendation 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. The Model Code was circulated on 3rd December 2020, however, that was amended and a further version circulated on 23rd December 2020. The LGA propose to produce a guidance document to accompany the Model Code of Conduct – this is expected to be published in April 2021.



- 4.2 In addition, the Committee on Standards in Public Life included a list of 15 Best Practice Recommendations. Progress against these recommendations is monitored by the Committee on Standards in Public Life. Sandwell responded to the request to provide its progress in relation to the Recommendations in November 2020. The first national report on progress against these Recommendations was published on 11th January 2021 and Sandwell reflects positively against the Recommendations with many of the standards already achieved.
- 4.3 The Standards Working Group has overseen a review of the ethical framework including a review of the Member Code of Conduct, the Arrangements for Dealing with Complaints under the Code and the Social Media Policy.

Five engagement sessions were held during December 2020. This is the first time such an extensive engagement process has been adopted for Members in relation to the ethical framework. The sessions were as follows:

- **Review of the Member Code of Conduct**

The engagement session facilitated a discussion about what the code of conduct for Sandwell should look like. Options available were to keep the current Code, keep the current Code subject to some changes, adopt the new Model Code or adopt the new Model Code with some changes.

When asked about the current Code of Conduct, the general view was that there were issues with the current Code and there was a need for it to be made simpler, easier to read and for there to be greater accountability.

The majority of Members considered that the application of the LGA Model Code was better explained and the obligations concerning the standards of conduct that were required was clearer and more personalised.

There was general support for adoption of the LGA Code as it would enable the Council to take advantage of any advice, guidance and other supporting materials, sessions, workshops that the LGA may provide.



The Code of Conduct attached at Appendix A is the LGA Code of Conduct, but in addition includes a definition of Family Members and Close Associates.

## - **Spotlight on Social Media**

This was a spotlight session on the use of, and the benefits and the issues associated with, the use of social media and how this should be reflected in the new Member Code of Conduct. It was important to understand Members' thoughts and views on social media and its use.

The level of use by Members of social media varied considerably. The main uses were for disseminating information and promoting Council services.

Additional use of social media was seen largely to improve engagement. There was an acknowledgement that it was important to keep a personal social media account separate from ones used in the role of a Councillor.

There was a level of understanding of the risks associated with the use of social media, and how these risks can be managed. There was concern about the negative impact, not only on individual Members, but also their families.

There was a strong desire for additional support to be provided in relation to the use of social media so that the benefits can be exploited, and the pitfalls avoided. By finding ways to address the negative aspects of use of social media, and providing safeguards, there was a better prospect of social media being used in a more positive fashion to the benefit of Members, residents and the Council as a whole.

## - **Spotlight on Member Interests**

The declaration of Members' interests is a key area which is an important element of the Member's Code of Conduct. Of particular importance is the registration and declaration of interests, gifts and hospitality, sensitive interests and when matters should be excluded from the Public Register. Additionally, lobbying is a matter that merited further discussion.





Members had a good understanding about the types of interest that should be declared and a wide understanding of a Member's obligation when dealing with disclosable pecuniary interests. With regard to improving understanding of DPLs and other interests, training was the favoured way of achieving this, but Members also highlighted that example scenarios and case studies would be of assistance.

With regard to the retention period for Members' interests, the majority considered that it should be for as long as a person remained a Councillor plus three months, which represents the relevant limitation period for disclosure of information.

The majority of Members considered that the requirements relating to gifts and hospitality were sufficiently clear and that the current limit for gifts and hospitality of £100 should be lowered to £50, as set out in the LGA Model Code of Conduct.

The majority of Members thought that there should be greater clarity around the issue of lobbying Councillors and that members of the Planning and Licensing Committees, had a greater understanding of the issues presented by lobbying.

#### **- Review of the Arrangements for Dealing with Complaints under the Code**

This engagement session considered the current and future arrangements for dealing with standards allegations. The arrangements are of particular importance as they outline the process that will be followed for dealing with complaints relating to a breach of the Members' Code of Conduct.

The current arrangements were consistent with neighbouring authority's arrangements but need some improvement to allow complaints to be dealt with more effectively. As part of the Committee for Standards in Public Life's review of the ethical standards framework, they provided a list of best practice recommendations.



Sandwell has already made significant progress in the majority of the recommendations or in fact are already doing what is suggested, but some required further discussion around how often the Code of Conduct and arrangements should be reviewed, providing timescales for investigations and separate meetings between senior officers, group leaders and Whips to discuss standards matters (as set out in the attached protocol).

Members were asked to assess how they rated the arrangements for dealing with allegations of breaches of the Code of Conduct.

Members thought that more guidance was needed on making complaints, the process and timescales and outcomes.

Openness and speed was the top response to the question about improvement of the arrangements. There was also a need for more information and training for Members so that they understood the process better.

#### - **Duty to Promote and Maintain High Standards of Conduct**

This session specifically focussed on the promotion and maintenance of high standards.

The LGA's Model Code specifically focusses on the Nolan Principles and aims to create confidence in the role of a Councillor. The session aimed to explore with Members how the Council can promote high standards.

There were some useful suggestions about what could be done differently to demonstrate high standards.

There was also some discussion about the way that the Independent Persons are recruited.

There was a general consensus that there should be DBS checks for all Councillors.

In addition to the engagement sessions, a questionnaire was made available for Members who may not have been able to attend the sessions.





- 4.4 Attendance at sessions was good with an overall attendance of 50% across all the engagement sessions.
- 4.5 Feedback was recorded using a software tool called Mentimeter and the consolidated results for each session, together with an analysis of the information collected along with a list of proposed recommendations were used as the basis of a further member engagement session in February 2021.

## 5 Alternative Options

- 5.1 Section 27 of the Localism Act 2011 provides the duty for local authorities to promote and maintain high standards of conduct. In discharging this duty, local authorities must adopt a code of conduct and procedure for investigating complaints against members and ensure that any complaints are investigated in line with that procedure. The revisions proposed are based on the LGA Model Code and feedback from member engagement sessions.

## 6 Implications

<b>Resources:</b>	There are no resource implications arising from this report.
<b>Legal and Governance:</b>	The Localism Act 2011 introduced wide ranging changes to the old Standards regime. The Standards Board was abolished and Section 27 of the Act introduced the duty for local authorities to promote and maintain high standards of conduct. In discharging this duty, a local authority must adopt a code of conduct which deals with the conduct expected of members and co-opted members of the authority when they are acting in that capacity.
<b>Risk:</b>	A risk assessment has not been undertaken.
<b>Equality:</b>	An equality impact assessment has not been undertaken.
<b>Health and Wellbeing:</b>	The impact on the health and wellbeing of elected members has been taken into account in the revision of the Member Code of Conduct, the Arrangements for Dealing with Complaints under the Code and the Social Media Policy and additional processes introduced to support members in the their roles.



**Social Value**

There are no direct social value implications arising from this report.

## 7. Appendices

Appendix A – Revised Member Code of Conduct

Appendix B – Revised Arrangements for Dealing with Complaints under the Code

Appendix C – Revised Social Media Policy/Guidance/Incident Reporting Form/Protocol

Appendix D – Revised Gifts and Hospitality Guidance and Form

Appendix E – Protocol for Meetings between Senior Officers and Chief Whips

Appendix F - template/process for reporting matters in relation to the Arrangements for Dealing with Complaints under the Code to the Ethical Standards and Member Development Committee

## 8. Background Papers

<https://www.gov.uk/government/publications/local-government-ethical-standards-report>

<https://www.local.gov.uk/sites/default/files/documents/Model%20Council%20Code%20of%20Conduct%202020.pdf>

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/951186/Responses\\_from\\_local\\_government\\_part\\_1\\_final.xlsx](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/951186/Responses_from_local_government_part_1_final.xlsx)

