

**Manchester City Council
Report for Resolution**

Report to: Standards Committee – 2 November 2023

Subject: Local Government Association (LGA) Model Code of Conduct for Members

Report of: City Solicitor

Summary

To further consider whether to support the adoption of LGA Model Code of Conduct for Members or retention of the Council's current code.

Recommendations

To support the recommendation that the Council retain its current Code of Conduct for Members.

Wards Affected – all

Financial Consequences – Revenue None

Financial Consequences – Capital None

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Background documents (available for public inspection):

The following documents disclose important facts on which the report is based and have been relied upon in preparing the report. Copies of the background documents are available up to 4 years after the date of the meeting. If you would like a copy please contact one of the contact officers above.

- Manchester City Council Code of Conduct for Members
- Report to Standards Committee - March 2019
- Report to Standards Committee - 18 March 2021
- Report to Standards Committee - 4 November 2021
- Report to Standards Committee - 16 June 2022
- Report to Standards Committee -3 November 2022
- LGA Model Councillor Code of Conduct – 3 Dec 2020 updated 19/01/21 & 17/5/21.
- LGA Guidance on the Model Councillor Code of Conduct – 8 July 2021

1 Introduction

1.1 Members will recall that, as reported to this Committee in March 2019, the Committee on Standards in Public Life (“the CSPL”) published its report on its review of local government ethical standards on 30 January 2019. This report focuses on recommendation 1- ‘that the Local Government Association (‘LGA’) should create an updated code of conduct in consultation with representative bodies of councillors and officers of all tiers of local government’.

1.2 Since March 2019 the Committee has received the following reports in relation to the LGA Code of Conduct for Members (the LGA Code):

- 18 March 2021- Report recommending that discussions take place with the Greater Manchester Chief Legal Officers regarding potential adoption of the then draft LGA Code throughout Greater Manchester (GM) as a whole for consistency. This recommendation was supported by this Committee. The report advised that at that time it might be fair to say that the draft LGA code had generated a lukewarm response from some Monitoring Officers who preferred their own Code.
- 4 November 2021- Report recommending deferring the consideration and recommendations of the LGA Code pending:
 - the receipt of the Government’s response to the CSPL’s recommendations as this might result in legislative changes (e.g. in relation to sanctions) which might lead to further changes to the LGA code.
 - the issue of the LGA’s supporting Guidance on the Code

and noting that the LGA Code appeared to be in a state of flux having been updated twice within a short period. The recommendation was agreed by the Committee.

- 16 June 2022- Report regarding the Government response to the CSPL recommendations which was noted by the Committee including that the Government did not at that time intend to strengthen sanctions for breaches of Member Codes of Conduct.
- 3 November 2022- Report to:
 - Advise the Committee that the LGA had published its Guidance on the LGA Code.
 - Update Members regarding the position regarding adoption of the LGA code across GM (namely that Chief Legal Officers were of the view that it would be for each individual Council to consider its own position regarding adoption of the LGA code) and
 - identify those GM Councils that code as at the date of writing of that report had decided to adopt the code.

2. An update on the position regarding adoption of the LGA Code across Greater Manchester.

2.1 As at the date of writing this report the following GM Councils have adopted the LGA Code:

- Tameside
- Oldham
- Trafford (with local amendments)
- Stockport (with local amendments)
- Wigan (with local amendments)

The following GM Councils have yet to adopt or are considering adoption of the LGA Code:

- Salford
- Bury
- Bolton
- Rochdale.

3. The wider position regarding adoption of the LGA Code

3.1 The LGA carried out a survey in June 2023 on the impact and utility of the LGA Code. The survey was sent to monitoring officers in all principal councils in England, including district, county, unitary, metropolitan districts, and London boroughs. The final overall response rate to the survey was 35% (110 councils).

3.2 According to the LGA's research report of those who responded to the survey:

- 25 % of responders (27 Councils) had adopted the LGA code in full,
- 40 % (44 Councils) had adopted the Code with additions or minor amendments,
- 11 %(12 Councils) had adopted the Code to a moderate extent.
- 6% (7 Councils) had adopted the LGA Code to a small extent and
- 18 % (20 Councils) had not adopted the Code at all.

One notable written response quoted in the report said 'The revised code was weaker than existing requirements and follows a pattern of watering down ethical standards in local government' (p 11 of the LGA Research report) [Code of Conduct survey - 2023 \(local.gov.uk\)](https://www.local.gov.uk/research/code-of-conduct-survey-2023)

3.3 The research group undertook a desk top research exercise (described as 'light touch') of Council's websites for Councils that did not respond to the Survey. The review report says this analysis showed that non-respondent councils were less likely to have adopted the LGA code compared with Councils that did respond to the survey.

3.4 The research report indicates (at page 12) that of the non-respondent groups:

- 111 Councils had adopted the LGA code in full or with some small tweak and additions and
- 96 Councils had not adopted the LGA Code at all.

The LGA research report states (at page 12) a light touch review of the constitutions of councils that did not respond to the survey indicated that 54% of non-respondent councils had adopted the LGA Code of Conduct in full or in part.

4. Monitoring Officer's Comments on the LGA Model Code.

4.1 This section considers the LGA Code in 2 parts:

- Part 1 relating to General Conduct and
- Part 2 relating to Members' Interests.

4.2 Part 1 – General Conduct

4.2.1 Considering each Section of the LGA Code in turn key points are set out below with in each case the view of the Council's Monitoring Officer (MO)

- **Applicability** the LGA Code specifies it applies when a member is acting in their capacity as a councillor which may include when:
 - they misuse their position as a councillor,
 - their actions would give the impression to a reasonable member of the public with knowledge of all the facts that they are acting as a councillor;
 and that the Code applies to all forms of communication and interaction including when using social media.

The MO's view.

Manchester's Code of Conduct for Members also sets out when its Code of Conduct applies by reference to the term 'in an official capacity' in paragraph 2 of the Code. As members are aware the Council's Social Media Guidance deals with the issue of possible 'blurred identities' when using social media.

- **Respect.** The LGA Code includes the concept of treating other Councillors, members of the public, staff and representatives of partner organisations with 'respect' whilst acknowledging the need to be able to engage in debate in a civil manner.

The MO's view.

Although mentioned in the preamble to the Council's code this wording is not used in the Council's main Code of Conduct. It is the view of the Monitoring Officer that given the potentially low threshold and subjectivity of this concept its inclusion could give rise to lots of minor complaints. The Council's code of conduct does contain a requirement for members not to bully or be abusive to any person and a requirement for Members not to conduct themselves in a manner that could reasonably be expected to be

regarded as bringing the office of Councillor or the Council into disrepute.

- **Bullying / Harassment / Promoting Equalities / No unlawful discrimination.**

The MO's view.

The Council's code already includes provisions relating to bullying and being abusive to any person includes a provision regarding causing the Council to breach the Equality Act. 'Harassment' which does not currently feature in the Manchester Code of Conduct for Members.

- **Impartiality of Officers.**

The MO's view.

A requirement in the LGA Code requiring Members not to compromise or attempt to compromise the impartiality of Officers is covered in Paragraph 3 of the Council's Code of Conduct.

- **Confidentiality and Access to Information.**

The MO's view.

There is a similar provision in the Council's Code of Conduct to that relating to this requirement in the LGA Code.

- **Disrepute.**

The MO's view.

The requirement in the LGA Code of Conduct not to bring the role of Councillor or their Local Authority into disrepute is as indicated above contained in the Council's Code of Conduct.

- **Misuse of Position.**

The MO's view.

The requirement in the LGA Code of Conduct not to use the position of Councillor to improperly advantage or disadvantage yourself or anyone else is contained in Manchester's Code of Conduct.

- **Use of Council Resources and Facilities.**

The MO's view.

Again, the requirement in the LGA Code not to misuse Council resources including for political purposes is contained in the Council's Code of Conduct.

- **Complying with the Code** . The LGA Code contains a requirement , not in the Council's Code of Conduct, requiring Members to comply with any sanction imposed following a finding that the code has been breached.

The MO's view.

Insertion in the Code of Conduct of such a requirement could become a circular issue.

- **Gifts and Hospitality.** The LGA code sets the threshold for registration of Gifts and hospitality at £50 (the threshold in Manchester Code of Conduct, as Member will be aware is £100).

The MO's view.

The view of the Monitoring Officer is that the £100 threshold is appropriate given in particular the current likely cost of hospitality.

4.2.3 Omissions from the LGA Code.

The LGA Code does not cover certain circumstances provided for the Council's Code of Conduct:

- It does not specifically state, as provided in Manchester's code, that members must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986
- Nor does it specifically require that when reaching decisions on any matter members must have regard to any relevant advice provided to the member by the Council's Chief Finance Officer; or the Council's Monitoring Officer and that members must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Council though these are mentioned in the LGA's accompanying guidance.

4.3. Part 2 Members' Interests.

4.3.1 Appendix B of the LGA Model Code sets out the requirements in relation to registration and declaration of Interests. Whilst the LGA Code aims to simplify the rules there are a number of issues in relation to this part of the LGA code:

- arguably it does not explicitly deal with declaration on interests outside of formal Council Committee meetings e.g. consultation with members or member decision making.
- The provisions relating to Disclosable Pecuniary Interests depart from the broader wording in s 31 of the Localism Act 2011 (which relates to Disclosable Pecuniary Interests (DPIs)) and introduces a distinction between matters that "directly relate" to an interest and things that "affect" an interest.

As indicated in previous reports the Monitoring Officer would not recommend this departure from the statutory wording given the criminal sanctions that follow. Whilst the LGA does set out its reasoning for its wording in guidance accompanying the LGA Code this does not address the Monitoring Officer's reservations on this point. The Monitoring Officer has written to the LGA seeking specific clarification as this is a particular concern given the

consequent risk to members of presenting them with an inaccurate description of the scope of the DPI restrictions, however the response received does not change the Monitoring Officer's position.

5. The Monitoring Officer's views regarding adoption of the LGA Code.

- 5.1 Although there are some positives to the LGA code, on reflection the Monitoring Officers views are that in relation to matters relating to General Conduct these matters are already addressed in the Council's Code and some important conduct requirements currently in Manchester's Code of Conduct do not feature in the LGA Code.
- 5.2 Whilst the LGA code does contain narrative in relation to each requirement, on balance the Monitoring Officer is of the view that retaining the more straightforward wording in Manchester's current Code is preferable.
- 5.3 The Monitoring Officer's reservations regarding the provisions in the LGA code about declaration of Interests has been indicated a number of times.
- 5.4 On reflection for the reasons stated above and because members are familiar with the current code the Monitoring Officer recommends retention of Manchester's current Code of Conduct rather than adoption of the LGA Code. Whilst this may seem to make the Council an outlier given many Councils have adopted the LGA code with or without modification it seems clear from the LGA report referenced at paragraph 3 above that there are a significant number of Councils that have not done so.

6. Recommendation

The recommendation appears at the front of this report.