

LGA Consultation on Draft Model Member Code of Conduct

Thank you for taking the time to complete this consultation. This Model Member Code of Conduct [[Model Member Code of Conduct.pdf](#)] aims to be concise, written in plain English and be understandable to members, officers and the public. The Model Member Code is designed to aid members in all tiers of local government model the behaviours and high standards that anyone would expect from a person holding public office. Equally, it articulates behaviour which falls below the standards that would be expected of council members. It is designed to help set a framework for public and councillor interaction, emphasising the importance of civility and that councillors should be protected from bullying, intimidation and abuse.

The LGA has reviewed the existing Model Member Code of Conduct and updated it here incorporating the recommendations from the Committee on Standard's in Public Life's recommendations on Local Government Ethical Standards and the representation from its membership. Part of the Committee's recommendations were the introduction of sanctions for breaches of the code, alongside an appeals process. This aspect is out of scope of this consultation, as it requires legislative changes by Government, but the LGA has sought to reflect some of the possible changes by using square brackets where legal changes would be necessary. The LGA is continuing to take soundings from the sector on the issue of sanctions in anticipation of a Government response to the Committee's recommendations.

This consultation addresses key areas that the LGA would like a view on to help finalise the Code. It is aimed at councillors and officers from all tiers of local government. If you would like a wider discussion about the code, please do sign up to one of the forthcoming Webinars the LGA are holding as part of this consultation. Details will be posted on our [LGA events website](#).

Instructions and privacy notice

You can navigate through the questions using the buttons at the bottom of each page. Use the 'previous' button at the bottom of the page if you wish to amend your response to an earlier question.

All responses will be treated confidentially. Information will be aggregated, and no individual or authority will be identified in any publications without your consent. Identifiable information may be used internally within the LGA but will only be held and processed in accordance with our [privacy policy](#). We are undertaking this consultation to aid the legitimate interests of the LGA in supporting and representing authorities.

Please complete your response in one go - if you exit before submitting your response your answers may be lost. If you would like to see an overview of the questions before completing the consultation online, you can access a PDF [here](#).

About you

MIKE PEARSON

Your name _____

Are you...

- A councillor
- An officer
- Answering on behalf of a whole Council (Please provide council name below)
- Other (please specify below)

THE DEVON & SOMERSET FIRE & RESCUE AUTHORITY

Please indicate your council type

- Community/Neighbourhood/Parish/Town
- District/Borough
- County
- Metropolitan/Unitary/London Borough
- Other (please specify below)

COMBINED FIRE & RESCUE AUTHORITY

Application of the Code

Under the Localism Act 2012, the Code of Conduct applies to councillors only when they are acting in their capacity as a member. The LGA believes that because councillors are elected by the public and widely recognised by the public, it makes sense for them to continue to model these behaviours when they are making public comment, are identifying as a councillor and when it would be reasonable for the public to identify them as acting or speaking as a councillor. The Committee on Standards in Public Life supported this approach in their report into Local Government Ethical Standards. Whilst the LGA is waiting for Government's response to these recommendations the option has been added in square brackets as it would need changes in legislation.

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?

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

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

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 to you support the 12 specific obligations?

	To a great extent	To a moderate extent	To a small extent	Not at all	Don't know / Prefer not to say
1. Treating other councillors and members of the public with civility.		X			
2. Treating council employees, employees and representatives of partner organisations and those volunteering for the councils with civility and respecting the role that they play.	X				
3. Not bullying or harassing any person.	X				
4. Not compromising, or attempting to compromise, the impartiality of anyone who works for, or on behalf of, the council.	X				
5. 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.	X				
6. Not preventing anyone getting information that they are entitled to by law.	X				
7. Not bringing my role or council into disrepute.	X				

8. Not using, or attempting to use, my position improperly to the advantage or disadvantage of myself or anyone else.	X				
9. Not misusing council resources.	X				
10. Registering and declaring my interests.	X				
11. Not accepting significant gifts or hospitality from persons seeking to acquire, develop or do business with the council or from persons who may apply to the council for any permission, licence or other significant advantage.	X				
12. Registering with the monitoring officer any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt.		X			

Q5. If you would like to propose additional or alternative obligations, or would like to provide more comment on a specific obligation, please do so here:

This Authority considers that there should be a specific obligation of “respect” rather than “civility”. Civility can be defined as formal politeness and courtesy in behaviour of speech. Respect, however, implies a more positive obligation – to have due regard to the feelings, wishes and rights of others and to behave accordingly. “Respect” encompasses “civility” but is considered more appropriate in light of the overall context of the General Principles of Public Life and the purpose of the Model Code, which should be about those in public office demonstrating, through their conduct and behaviours, firmly held beliefs.

This Authority considers that the following additional obligations should be included:

- (1). you must not, in relation to any allegation that a Member has failed to comply with the Authority’s Code of Conduct, intimidate or attempt to intimidate any person who is or is likely to be either a complainant; or a witness; or is otherwise involved in the administration of any investigation or proceedings in respect of the allegation;

- (2). you must, when reaching decisions on any matters, do so on the merits of the case, act in the public interest, given reasons (where required) for decisions and have reasonable regard to any relevant advice provided by an officer of the council (for example, the Head of Paid Service, the Chief Financial Officer and the Monitoring Officer);
- (3). you must comply and co-operate fully and openly:
 - (a). in any formal standards investigation in which you are either the Subject Member or a witness; and
 - (b). with any sanction that may have been imposed on you for a proven breach of the Code;
- (4). you must not make trivial or malicious allegations against a fellow Member (or Members) of the council.

Although (1) is arguably covered by existing obligations (notably 1 to 4 inclusive, 7 and 8), it is nonetheless considered that setting this out as an additional obligation adds clarity to the Model Code. (2) is considered to be consistent with the General Principles of Public Life of objectivity, selflessness, openness, respect for others and duty to uphold the law. (3)(a) and (4) were recommended as best practice by CSPL. 3(b) is considered to be consistent with 3(a).

Each of these obligations is currently contained in this Authority's Code.

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 to 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:

As stated in the answer to question 4, this Authority considers that there should be a specific obligation of “respect” rather than “civility”. Civility can be defined as formal politeness and courtesy in behaviour of speech. Respect, however, implies a more positive obligation – to have due regard to the feelings, wishes and rights of others and to behave accordingly. “Respect” encompasses “civility” but is considered more appropriate in light of the overall context of the General Principles of Public Life and the purpose of the Model Code, which should be about those in public office demonstrating, through their conduct and behaviours, firmly held beliefs.

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:

While in the main the concept is well described, it is considered it could be clarified further by the addition of the words “and/or could be viewed as intimidating” i.e.

“Behaviour that is considered as dishonest and/or deceitful and/or could be viewed as demeaning or intimidating can bring the Authority into disrepute.”

As with the answer to question 5, it is felt that this addition would add further clarification and amplify the other aspects of the Code dealing with bullying and harassment.

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.

While alternative definitions are not proposed, it is felt that the Model Code would benefit from the inclusion of examples of what may constitute “unwanted conduct” and the following are suggested:

- spoken or written words or abuse;
- offensive tweets, e-mails or comments on social media;
- images and graffiti;
- physical gestures;
- facial expressions; and
- jokes.

The above examples are currently included in this Authority's Code.

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?

- Separate code
- Integrated into the code
- 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:

While it is a step forward that the Model Code references social media, this Authority considers that in today's world this is an area where Members are most likely to fall foul of a Code breach. While a separate Code for use of social media is not felt necessary, it is felt there would be considerable benefit in producing specific guidance for Members on appropriate use of social media, to include examples of what is and is not acceptable.

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 to 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:

This Authority's Code already contains the provisions as proposed in the Model Code.

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:

It is also suggested that more outside interests should be registered than is the current statutory minimum. These are set out in **Table 2 of the Appendix** and are designed to demonstrate to the community transparency about other bodies with which the councillor is engaged.

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

	To a great extent	To a moderate extent	To a small extent	Not at all	Don't know / Prefer not to say
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	X				
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	X				
Any organisation, association, society or party directed to charitable purposes	X				
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)	X				

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

It is considered that the way the other registerable interests are prefaced in Table 2 at Appendix B is too restrictive in that it would seem to apply only to those bodies to which a Member is appointed by the relevant local authority in question.

Many Members are, however, dual or more “hatted” in that they serve on, for example, a District Council, a County Council and/or a town or parish council even though they would not necessarily have been appointed to these by the local authority to which the relevant Code applies. In the interests of transparency it is felt that Members should register all public bodies on which they serve, irrespective of who made that appointment.

This Authority’s Code already requires Members to register those other public bodies on which they serve. For this Authority this is particularly relevant as it is not subject to direct election but rather appointments are made by four constituent authorities (Devon and Somerset County Councils, Plymouth City Council and Torbay Council). Nonetheless, by virtue of the regulatory Combination Scheme establishing the Authority, it is an authority in its own right and required to have its own Code of Conduct.

Additionally, this Authority’s Code also requires the registration of the following personal interests:

- (a). directorship of membership (within the meanings of the Companies Act 2006) or any company, where such directorship or membership **does not** constitute a disclosable pecuniary interest; and
- (b). any contract between the Authority and the Member or a relevant person (or a body in which the Member or relevant person has an interest):
 - (i) under which goods or services are to be provided or works are to be executed; and
 - (ii) which has not been fully discharged

but where neither the Member nor the relevant person has a disclosable pecuniary interest.

The Committee on Standards in Public Life recommended that (a) should be included as a registerable interest and (b) is considered to be a logical extension of this. If one of the primary purposes of the Code is to uphold and promote public confidence in local government, then it is suggested that the above should be included for transparency purposes and to help prevent any suggestion that Members are taking decisions on matters in which they might otherwise be conflicted.

This Authority’s Code requires a Member with a personal interest in a matter to declare this and leave the meeting during consideration of that matter, unless they have a current and relevant dispensation. In relation to this latter point, this Authority’s Code currently stipulates that participation by a Member in discharging the following functions does not constitute a personal interest requiring either registration or disclosure of meetings:

1. the setting of any Authority allowance, payment or indemnity to Members; and
2. the setting of the Authority budget and associated Council Tax precept.

The rationale for these exemptions is self-explanatory (it avoids the requirement for a blanket dispensation) and it is considered that the explicit inclusion within the Code aides transparency and clarity on those matters which do and do not require registration and declaration.

Q14. To what extent to 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:

Consistency with and amplification of conduct in public office being consistent with the Principles of Public Life, in particular avoiding conflicts of interest and ensuring that decisions are taken (and seen to be taken) purely on merit.

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)

Single value of £50, or totalling £100 over a twelve month period from a single source (as recommended by the Committee on Standards on Public Life)

- 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.

- 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:

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

This Authority's Code is, by and large, already consistent with the proposed Model Code. Additionally, this Authority's Code also advises Members (under Application of the Code) that:

- (a). where they are appointed by the Authority to serve as its representative on another authority with a Code of Conduct, then when acting for that other authority they must comply with both its Code of Conduct and the Code of Conduct of this Authority; and
- (b). where they are appointed by the Authority to serve as its representative on another body (for example, an Authority controlled company) then they must, when acting for that other body, comply with the Authority's Code of Conduct except in so far as this might conflict with any lawful obligations the other body may be subject to.

The sections on Breaches of the Code of Conduct and Example LGA Guidance and Recommendations on an internal resolution procedure would seem, from the consultation document, to form part of the Model Code. This Authority acknowledges that it is required by the Localism Act to have arrangements (to include an independent person) in place to address breaches of the Code but does not feel that these arrangements should form part of the Code of Conduct itself. The arrangements should, though, be readily available to the public (and currently are for this Authority).

The Committee on Standards in Public Life (CSPL), while acknowledging that the current variations in length, quality and clarity of existing Codes was a source of confusion to the public and councillors, also highlighted that there were benefits in local authorities being able to amend and have ownership of their own Codes of Conduct. As such, the view of CSPL was that any updated Model Code should be voluntary and able to be adapted by local authorities. This Authority would support that view and while it would support adoption of the contents of any Model Code as an absolute minimum, the Authority would also wish to have the flexibility to format and add to the Model Code as it considered appropriate.

It is unfortunate (although perhaps understandable given the time between the two publications) that the Model Code has been produced in advance of any Government proposals that might be forthcoming based on the recommendations made by CSPL. Most notably, CSPL commented and made recommendations on sanctions (or more pertinently, the lack of them) available to local authorities in the event of proven breaches of the Code of Conduct. It is appreciated the ability to impose more meaningful sanctions (for example, suspension for up to six months without allowances for the most serious cases, as recommended CSPL) would require legislative change. This Authority would wish to see the Local Government Association lobby the government for the legislative changes recommended by CSPL as a Code unsupported by an effective range of sanctions can at best have only limited effect and meaning. Similarly, the Authority would wish to see the Local Government Association lobby the government to implement the CSPL recommendation of a right of appeal for Councillors to the Local Government Ombudsman on sanctions that may have been imposed following a proven breach of the Code

Finally, CSPL recognised that there was some potential for friction between Members and statutory officers (in particular, the Monitoring Officer) stemming from the statutory duty in the Localism Act 2011 to promote and maintain high standards of conduct by Members. In recognition of this, CSPL recommended an amendment to the relevant Regulations to extend the disciplinary protections for statutory officers to all types of disciplinary action, not just dismissal. This Authority would wish to see the Local Government Association lobby the government for this amendment.