

Committee Name: Council

Committee Date: 21/07/2021

**Report Title: Members Code of Conduct and Complaints Hearing
Procedure July 2021 - Update**

Portfolio:	Cllr Kendrick, cabinet member for resources
Report from:	Executive director of corporate and commercial services
Wards:	All wards
OPEN PUBLIC ITEM	

Purpose

To consider revising the Member Code of Conduct in light of the LGA Model Code of Conduct and the findings of the Committee for Standards in Public Life.

Recommendation:

To adopt the revisions to the Member Code of Conduct in Appendix B and the complaints, investigation and hearings procedure set out in Appendix C, as recommended by the Standards Committee, for inclusion in the Constitution.

Policy Framework

The Council has three corporate priorities, which are:

- People living well
- Great neighbourhoods, housing and environment
- Inclusive economy

This report meets all corporate priorities

Report Details

1. Every local authority is required to adopt a Code of Conduct in relation to the conduct of its elected members. The council's current code of conduct is contained within the constitution and has served members well since it was

introduced in 2012. It is one with which members are familiar and overwhelmingly comply.

2. The Committee on Standards in Public Life (CSPL) undertook a comprehensive review of local government ethical standards and published a report in January 2019. It made 26 formal recommendations to the Prime Minister and 15 Best Practice recommendations. A number of the recommendations required legislative changes to be implemented but this has been delayed. These recommendations are set out in full in Appendix A and show how the council has or will be responding to them.
3. In the meantime, the LGA published a draft Model Code, which the Standards Committee considered at its meeting on 17 November 2020. Feedback from members and the Independent Person at that time was generally positive and welcoming of the Model Code. The final Model Councillor Code of Conduct was published on 23 December 2020, following consultation with stakeholders and examining good practice in local government and other professions. However, if the Government chooses to implement some of the recommendations arising from the CSPL, the LGA has expressed caution that the Model Code could require amendment and is keeping the situation under review.
4. On 5 July 2021, the Standards Committee considered the options regarding the adoption of the Code and voted unanimously to recommend to the Council to retain the current Member Code of Conduct as contained in the constitution as adapted to reflect the CSPL recommendations. The consideration being that this ensures that the Code of Conduct for Norwich City Council is fit for purpose, provides clarity on expected behaviours and manages and reflects public expectations.
5. Dependent on the development of the LGA Code, this may be considered by the Standards Committee at a future date.

Consultation

6. Group leaders have been consulted and their feedback is included in the appendices as attached.

Implications

Financial and Resources

Any decision to reduce or increase resources or alternatively increase income must be made within the context of the council's stated priorities, as set out in its Corporate Plan 2019-22 and Budget.

7. There are no proposals in this report that would reduce or increase resources.

Legal

Statutory Considerations

Consideration:	Details of any implications and proposed measures to address:
Equality and Diversity	Neutral impact
Health, Social and Economic Impact	Neutral impact
Crime and Disorder	Neutral impact
Children and Adults Safeguarding	Neutral impact
Environmental Impact	Neutral impact

Risk Management

Risk	Consequence	Controls Required
Include operational, financial, compliance, security, legal, political or reputational risks to the council	No risk	Not applicable

Other Options Considered

8. The Council may:
- a) Adopt the Code as set out at appendix B
 - b) Reject the Code as set out at appendix B and ask the standards Committee to reconsider the LGA Model Code

Reasons for the decision/recommendation

9. Each local authority must adopt a Code of Conduct in relation to the conduct of its elected members.

Tracking Information

Governance Check	Name	Date Considered
Relevant Executive Director	Annabel Scholes	12/07/21
Legal opinion	Katrina Hulatt	09/07/21
Chief Finance Officer (or Deputy)	Annabel Scholes	12/07/21
Monitoring Officer (or Deputy)	Katrina Hulatt	09/07/21

Appendices:

Appendix A CSPL Local Government Ethical Standards – 15 Best Practice Recommendations

Appendix B – Member Code of Conduct

Contact Officer:

Name: Kat Hulatt

Telephone number:

Email address: Katrina.hulatt@norfolk.gov.uk

APPENDIX A

CSPL Local Government Ethical Standards 15 Best Practice Recommendations

1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

Progress: The council's Member Code of Conduct has been revised at Appendix B to contain a prohibition on bullying and harassment.

2: Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.

Progress: The council's Member Code of Conduct has been revised at Appendix B to contain provision for these.

3: Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

Progress: We will ensure that the council programme of meetings is updated to include an annual review of the Code of Conduct. We will consider the proposal regarding consultation at the Standards Committee and then with all Group Leaders to determine how the Council wishes to take this forward.

4: An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

Progress: The Code forms part of the council's constitution. It is available on the council's website and in hard copy on request.

5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

Progress: The council will ensure that the gifts and hospitality register is updated on a quarterly basis as suggested.

6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.

Progress: The revised constitution contains a straightforward public interest test.

7: Local authorities should have access to at least two Independent Persons.

Progress: We currently only have one Independent Person (Linda Barber).

We will start the recruitment process for another Independent Person, or persons, in June 2021.

8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

Progress: The Council always consults an Independent Person as described, and the revised criteria that the Council applies in relation to complaints, investigations and hearings includes this – see Appendix C.

9: Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

Progress: The revised criteria that the Council applies in relation to complaints, investigations and hearings includes this – see Appendix C.

10: A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

Progress: The revised criteria that the Council applies in relation to complaints, investigations and hearings (see Appendix C) will be published on the council's website.

11: Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.

Progress: Not applicable to this council.

12: Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

Progress: Not applicable to this council.

13: A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

Progress: We would always consider conflicts of interest at the outset and the revised criteria that the Council applies in relation to complaints, investigations and hearings includes this – see Appendix C.

14: Councils should report on separate bodies they have set up or which they

own as part of their annual governance statement, and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place.

Progress: Agendas and minutes of the boards are not currently published as these are not public meetings. The business plans are taken to cabinet annually.

15: Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

Progress: Senior officers meet regularly with political group leaders and standards issues are sometimes discussed. These could be added as standing items to the agendas of such meetings.

APPENDIX B

MEMBER CODE OF CONDUCT

INTRODUCTION

1. This code of conduct is made under section 27(2) of the Localism Act 2011 ("the Act") and applies to all members of Norwich City Council ("the council").
2. The purpose of this code is to promote and maintain high standards of conduct by members and co-opted members of the council when they are acting in that capacity.
3. This code is intended to promote and maintain behaviour consistent with the following principles:

SELFLESSNESS: Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

INTEGRITY: Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

OBJECTIVITY: In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

ACCOUNTABILITY: Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

OPENNESS: Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

HONESTY: Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

LEADERSHIP: Holders of public office should promote and support these principles by leadership and example.

4. You must register and declare interests as required by the Act.

GENERAL PROVISIONS

Introduction and interpretation

5. This code applies to you as a member¹ of the council.
6. You should read this code together with the general principles contained in the Act.
7. It is your responsibility to:
 - (a) comply with the provisions of this code
 - (b) undertake Code of Conduct training provided by the council
 - (c) co-operate with any Code of Conduct investigation and/or determination
 - (d) not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings
 - (e) comply with any sanction imposed following a finding that I have breached the Code of Conduct
 - (f) not to make trivial or malicious allegations under this Code
8. In this code - "meeting" means any meeting of:
 - (a) the authority
 - (b) the executive of the authority
 - (c) any of the authority's or its cabinet's committees, sub-committees or joint committees²

¹ "**member**" includes a co-opted member and an appointed member. "**co-opted member**" means 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.

² Reference to a joint committee is a reference to a joint committee on which the authority is represented.

Scope

9. Subject to paragraphs 10 to 13, you must comply with this code whenever you:

- (a) conduct the business of the council (which, in this code, includes the business of the office to which you are elected or appointed); or,
- (b) act, claim to act or give the impression you are acting as a representative of the council;

and references to your official capacity are construed accordingly.

10. Subject to paragraphs 11 and 12, this code does not have effect in relation to your conduct other than where it is in your official capacity.

11. Conduct to which this code applies (whether that is conduct in your official capacity or conduct mentioned in paragraph 11) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).

12. Where you act as a representative of the council:

- (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
- (b) on any other body, you must, when acting for that other body, comply with the council's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

General obligations

13. You must treat others with respect.

14. You must not:

- (a) do anything which may cause the council to be in breach of any statutory obligations, including discriminating unlawfully against any person. Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership,

pregnancy and maternity, race, religion or belief, sex and sexual orientation;

- (b) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the council.
- (c) Bully or harass any person. The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others. The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

15. You must not:

- (a) Disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
 - (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;
 - (iii) 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;
 - (iv) the disclosure is:
 - (aa) reasonable and in the public interest; and,
 - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or,
- (b) Prevent another person from gaining access to information to which that person is entitled by law.

16. You must not conduct yourself in a manner which could reasonably

be regarded as bringing your office or authority into disrepute.

17. You:

- (a) Must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and,
- (b) Must, when using or authorising the use by others of the resources of the council:
 - (i) act in accordance with the council's reasonable requirements;
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes);and
- (c) Must have regard to any applicable Code of Practice for Local Authority Publicity made under the Local Government Act 1986.

18. When reaching decisions on any matter you must have regard to any relevant advice provided to you by:

- (a) The council's Chief Finance Officer; or
- (b) The council's Monitoring Officer, where that officer is acting pursuant to their statutory duties.

19. You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the council.

20. Under the provisions of the Localism Act 2011 and The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012, you must give the Monitoring Officer written notice of any pecuniary or other interests and any changes, which apply to you or where it is an interest of your spouse or partner (a person with whom you are living as a husband and wife; or a person with whom you are living with as if you are civil partners) within 28 days of:

- (a) Election or appointment to office (if that is later);
- (b) Any change to the interests;
- (c) Disclosing an interest at a meeting (where not otherwise entered on the register);
- (d) Becoming aware of the interest when solely discharging a function of the authority as a member of the council's cabinet.

21. It is a prosecutable offence to fail to notify the Monitoring Officer of your interests or knowingly/recklessly provide false or misleading information.

22. The pecuniary interests which are specified for these purposes in the Act are:

- (a) Employment, office, trade, profession or vocation that you or your spouse/partner undertake for profit, remuneration or other gain;
- (b) Sponsorship: any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in relation to any expenses you have incurred in carrying out your duties as a member, or towards your election expenses. This includes any payment of financial benefit from a trade union.
- (c) Any contract which is made between you or your spouse/partner or a body in which you (or your spouse/partner) has a beneficial interest) and the relevant authority:
 - (i) under which goods or services are to be provided or works are to be executed; and,
 - (ii) which has not been fully discharged;
- (d) Land: Any beneficial interest in land that you or your spouse/partner might have which is within the area of the relevant authority;
- (e) Licences: Any licence (whether you alone, your spouse/partner's or held jointly with others) to occupy the land in the area of the relevant authority for a month or longer;
- (f) Corporate tenancies: any tenancy where to your knowledge:
 - (i) the landlord is the relevant authority; and,
 - (ii) the tenant is a body in which the relevant person has a beneficial interest.
- (g) Securities: any beneficial interest in securities of a body where that body to your knowledge has a place of business or land in the area of the relevant authority; and, either:
 - (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
 - (ii) either the total nominal value or the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

23. You must also register other interests you may have which impact on your role within the council which include:
- (a) Membership of political parties; pressure groups; trade unions; charitable, voluntary or social enterprise organisations;
 - (b) Membership of another public sector organisation;
 - (c) Any other bodies not declared as a pecuniary interest in which you have a position of general control or management;
 - (d) Outside bodies to which you have been appointed by the council;
 - (e) Non-remunerated advice, guidance or consultancy you have provided on an ongoing basis, or specifically within a past 12 month period;
 - (f) Lobbying you have participated in, or Lobbying you have participated in, or matters you have been lobbied on (particularly where you may be predetermined on an individual matter);
 - (g) Organisations in which you have a beneficial interest which does not meet the requirements of 22 (g), (i) or (ii) above;
 - (h) Any other matters you consider should be disclosed;
 - (i) Pecuniary interests held by other members of your family or close associates which are likely to impact on your role as a councillor.
24. You may apply to the Monitoring Officer if you have a pecuniary interest which is sensitive and would cause you harm or victimisation as a result of the interest being made public. If the Monitoring Officer agrees the only notification that will be required is that you have a pecuniary interest and you will not need to disclose the details.
25. A member with a pecuniary or other interest in a matter, who attends a meeting of the authority at which the matter is considered, must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
26. You have a legal requirement to declare pecuniary interests at a meeting and must not take part in any discussion or vote on the matter.
27. If you are dealing with matters as a cabinet member and become aware of the interest, you must not take any further action in relation to it.

28. You may apply to the Monitoring Officer for a dispensation where you wish to participate in the consideration of an item and vote and you have a disclosable pecuniary interest where:
- (a) a committee may not be quorate without the dispensation being given;
 - (b) a disproportionate political representation on a committee may arise;
 - (c) it is in the public interest to give a dispensation;
 - (d) the cabinet could not make a decision without a dispensation;
 - (e) it is otherwise appropriate.
29. It is a prosecutable offence to continue to act where you have a disclosable pecuniary interest.
30. You will be required to withdraw from the meeting during the discussion of matters where you have a disclosable pecuniary interest. You have the same rights as a member of the public to speak at the meeting (i.e. you cannot vote or participate in the debate).
31. You must declare other interests, which impact on your role as a councillor, where it is relevant, but not prejudicial, to the matter under consideration. You may participate in discussion and the vote on the matter.
32. When participating in quasi judicial/regulatory decision making, you should also approach the matter with an open mind. If you appear to the public to have a closed mind on a matter you will be considered to have pre-determined the matter and therefore should not vote on the issue. If you have a pre-determined view in a matter under consideration, you will be required to withdraw from the room during the discussion and not participate in the discussion or vote.