

REPORT TO:	ETHICS COMMITTEE
SUBJECT:	LGA CODE OF CONDUCT GAP ANALYSIS WITH CURRENT CODE
LEAD OFFICER:	INTERIM EXECUTIVE DIRECTOR OF RESOURCES, & DEPUTY MONITORING OFFICER
WARDS:	ALL
CORPORATE PRIORITY/POLICY CONTEXT:	
The Council has determined that the Ethics Committee shall be responsible for receiving and considering reports on matters of probity and ethics and to consider matters relating to the Code of Conduct.	
FINANCIAL IMPACT	
Implementation of the recommendations contained in this report shall be contained within existing budgets	
FORWARD PLAN KEY DECISION REFERENCE NO.: N/A	
1. RECOMMENDATIONS	
The Ethics Committee is asked to:	
1.1	Consider the contents of the report
1.2	Agree, in principle, to recommend to Full Council that it replace or part replaces the current Code of conduct with the LGA Model Code as revised.
1.3	Agree that the proposed new Code or parts to be recommended to Full Council will include the additional matters detailed in paragraph 3.25 below.
1.4	Delegate authority to the Interim Executive Director of Resources, and Deputy Monitoring Officer authority to prepare for the Committee's further consideration and onward recommendation to Full Council:
1.4.1	a revised version of the Members' Code to adhere to recommendations 1.2 and 1.3
1.4.2	a revised version of the Code of Conduct for non-voting Co-opted members
1.4.3	an updated Register of interests to take the Code changes into account
1.4.4	an updated Gifts and Hospitality register
1.4.5	details regarding any associated constitutional changes which are contingent upon the recommendations in this report.
1.5	Note that any changes to the Members' Code of Conduct and associated requirements and documents, including any constitutional amendments will need to be referred to Full Council for consideration and that any revisions to

the Code and associated arrangements will need to be published in accordance with section 28 of the Localism Act 2011.

- 1.6 Note that training necessary to update members on the changes to the Code, will be arranged by the Interim Executive Director of Resources and Deputy Monitoring Officer.

2. EXECUTIVE SUMMARY

- 2.1 This report provides an analysis for Members' consideration of the differences between the Council's current light touch Code of Conduct, Appendix A to this report and the LGA draft Code of Conduct, Appendix B to this report which was published in January 2021.
- 2.2 Whilst work was already underway in terms of the report from the Committee on Standards in Public Life ("CSPL") and their recommendation regarding a Model Code of Conduct, the Croydon Renewal Plan makes clear that there will be "a review of the code of conduct for councillors and officers, and action to change culture and behaviours and strengthen staff engagement, involvement and equality." This report details the review of the Council's Members' Code of Conduct within the statutory framework.
- 2.3 The Committee is asked to recommend, in principle, the adoption of the LGA Model Code, with some Croydon specific additions to enhance the Council's Compliance with its statutory duties under the Localism Act 2011.

3. DETAIL

- 3.1 The Localism Act 2011 ("the Act") abolished the Standards Regime and Standards Board for England, including the Model Code of Conduct which was introduced in 2000. Under the Act the Council was required to adopt a Code of Conduct and have in place arrangements under which allegations that a Member has failed to comply with that authority's Code of Conduct could be investigated and decisions made on such allegations.
- 3.2 At the time of introduction of the current Code of Conduct, it was based on the suggested Code prepared by DCLG (now MHCLG) and the light touch approach recommended by the Government bearing in mind the abolition of the former statutory Model Code of Conduct. The legislative provisions upon which the current code of conduct are based have not altered.
- 3.2 The Council is required to 'promote and maintain high standards of conduct' by their Members by the adoption of a Code of Conduct for elected Members. The content, beyond the requirements around disclosable pecuniary interests (DPs), is at the discretion of the Council provided the 7 principles identified within the Act are taken into account. These 7 principles are: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

3.3 The CSPL was established in 1994 and is responsible for promoting the Seven Principles of Public Life: selflessness, integrity, objectivity, accountability, openness, honesty, and leadership – commonly known as the Nolan Principles. The most recent report prepared by the CSPL was in January 2019 and can be accessed here:

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

3.4 Members may recall receiving ethics committee reports in March 2019 and May 2019 which detailed the outcome of the January 2019 Report of the CSPL which set out a gap analysis between the Council's then Code of Conduct and ethics arrangements and the best practice suggestions set out in the review by the CSPL. In addition to best practice suggestions, the report made a number of recommendations, predominantly to government, many of which are still being considered.

The reports from March 2019 and May 2019 to the Ethics committee can be accessed via the following links for members' ease of reference:

<https://democracy.croydon.gov.uk/documents/s14176/Agenda%20Item%209%20-%20Committee%20on%20Standards%20in%20Public%20Life%20Ethics%20Ctee%20Feb%202019%20updated.pdf>

and

<https://democracy.croydon.gov.uk/documents/s15377/Agenda%20Item%205%20-%20Rpt%20Best%20Practice%20Committee%20on%20Standards%20in%20Public%20Life%20Ethics%20Ctee%2016%20May%202019v.pdf>

3.5 The first of the recommendations which the CSPL made was that "The Local Government Association should create a Model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government". It was felt that following the outcome of the Report that a return to a Model Code would be appropriate. The LGA is not a statutory or governmental body but a national membership body for local authorities and works on behalf of member councils to support, promote and improve local government.

3.6 It should be noted that requiring the implementation of a Model Code across all local authorities would require a legislative change. At present, there is no indication that such a change is proposed by the government. That does not preclude the Council from reviewing its current arrangements under the Localism Act 2011 or making changes thereto.

3.7 During 2020, the LGA worked up a proposed Model Code which was consulted on with various stakeholders, including Monitoring Officers across the country. In January 2021 the LGA published a Model Code taking into account the outcome of the consultation. This document is attached at Appendix B to the report.

Primary differences between the Council's Code and the LGA Model Code:

- 3.8 The Councils' current code is short and succinct, running to 2 pages and is designed to be light touch. In contrast the LGA Model Code runs to 18 pages and replicates many of the requirements and obligations and wording of the former Model Code of Conduct which was abolished under the Localism Act 2011.
- 3.9 The Council's current code is a principles based code rather than a discursive code, whereas the LGA's Model Code contains statements as to conduct as well as a discursive element.
- 3.10 The LGA code includes a statement of principle in relation to standards of Councillor conduct and then goes on to offer what the LGA Code terms as "Guidance" which is included to "help to explain the reasons for the obligations and how they should be followed". This delineation would indicate that there is a separation between the obligation placed on the Councillor as to the standard of conduct and the interpretative element of the "guidance" section. This has the potential to create ambiguity between what is "duty" and what is merely guidance.
- 3.11 The LGA Code creates two new categories of interest, both of which are non-statutory, namely "other registerable interests" – which broadly correlate to the former Model Code "personal interests" category which was abolished by the Localism Act and "other non-registerable interests" which is defined as something that directly relates to a members' financial interest or well-being or a financial interest or well-being of a relative or close associate. This has no corresponding statutory footing.
- 3.12 In relation to gifts and hospitality, the Council's code requires declaration not only of any gift or hospitality received over £50 or multiple gifts and/or instances of hospitality with a cumulative value of £50 or more when received from a single donor within a rolling twelve month period. The LGA Code only considers a single gift/hospitality which exceeds £50
- 3.13 The LGA Code, in a departure from statute, provides that if there is an interest which falls within either of the three categories of interest as defined in the LGA Code (two of which go beyond the statutory scope) then not only may a member not participate or vote (which is the statutory requirement for Disclosable Pecuniary Interests and is reflected in the Council's Code of Conduct) but that they are also required to leave the room unless they have received a dispensation. This is a change from the current provisions in the Council's Code which simply requires that members are not permitted to participate or vote as per the statutory requirements, although in practice some members still chose to leave the room in such circumstances. It is considered appropriate for members to leave the room in such circumstances to avoid the perception of undue influence and this is an area proposed for change under the Code revisions.

- 3.14 The LGA Code appends the best practice recommendations from the CSPL. These recommendations are not reflected anywhere else in the draft Model Code. It should be noted that these recommendations were previously considered by the Ethics Committee as detailed in paragraph 3.4 above.
- 3.15 The Council's Code of Conduct makes clear when various co-opted members are caught by the statutory code and when co-optees are required to comply with the non-statutory code which the Council has adopted for certain non-voting co-optees. Because this latter code mirrors many of the statutory code features, if the Council is proposing to alter the code required by statute, consideration should also be given to reflecting those changes, where appropriate, in the non-statutory co-optees code of conduct.
- 3.16 The first section of the LGA Code includes a definition section which re-iterates the statutory definition of "Councillor" as set out in section 27(4) of the Localism Act as well as a definition of "local authority". In contrast, the Council's code provides: "You are a member or co-opted member of the London Borough of Croydon or a Member of the Health and Wellbeing Board or Pensions Board" specifically delineating when the Member code of Conduct applies as contrasted with the Code which the Council has adopted for Non-voting Co-optees who fall outside the statutory definition. A copy of the Code for non-voting co-optees is Appendix A to Part 6D of the Constitution and can be accessed here:

<https://democracy.croydon.gov.uk/documents/s22425/31%20Part%206D%20-%20Scheme%20of%20Co-option%20as%20amended%20Jan%202020.pdf>

- 3.17 In line with the discursive nature of the LGA code, it goes on to set out the purpose of the LGA Code as follows:

"The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government."

There is no such description in the Council's Code of Conduct.

- 3.18 The LGA Code then sets out the "General principles of Councillor conduct" which are said to be as follows:

"Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the Seven Principles of Public Life, also

known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage or disadvantage, on any person.
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest."

3.19 The above referenced principles are already set out in the Council's Code of conduct – section 2 (i)- (viii) in more detail that set out above but also with slightly different emphasis. For example, the LGA code does not reference the requirements around the Local Authority Code of Publicity made under the Local Government Act 1986 and compliance with said Code, which is particularly important in relation to the pre-election period for any election or referendum. Another example is that the use of public resources in the LGA Model Code only refers to "prudent" use rather than the Council's code which places an obligation on Members to avoid "improper" use. In addition, the Council's code specifically references the need to comply with the Council's Protocol on Staff - Councillor Relations, Part 5B.

3.20 Part 5 B makes it clear that staff can expect from Members such behaviour as:

- Respect, dignity and courtesy
- Integrity, mutual support and appropriate confidentiality

- Not to be subject to bullying or harassment or to be intimidated or put under undue pressure or improper influence. This requirement is expanded upon in Part 5B and specifically includes any person who is involved in any complaint about any alleged breach of the Council's Member's Code of Conduct. Part 5B places a requirement, as part of the Code and as part of Part 5B on Members to have regard to the seniority of employees in determining what reasonable requests are, having regard to the power relationship between Members and employees, and the potential vulnerability of employees, particularly at junior levels (Note: Bullying may be characterised as: offensive, intimidating, malicious or insulting behaviour; or an abuse or misuse of power in a way that intends to undermine, humiliate, criticise unfairly or injure someone. Harassment may be characterised as unwanted conduct which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for an individual.)
- That Members shall not use their position or relationship with employees to advance their personal interests or those of others or to influence decisions improperly (viii) That Members shall at all times comply with the relevant Code of Conduct.

3.21 Both the LGA Code and the Council's code provide that the Code applies when the Member is acting as a councillor. The LGA Code goes on to provide generic examples of when this might occur - in meetings, during communications (including "non-verbal" communication) and in electronic and social media communication.

3.22 In relation to standards of conduct, the LGA Code sets out the standards – as "I will" type statements and follows this with what is termed guidance to help to explain the reasons for the obligations and how they should be followed.

3.23 The LGA Code then goes on to delineate general conduct expectations. In some instances these are more fulsome than in the Council's Code and in others, the LGA Code sets out a lower threshold. For example:

- The LGA Code specifically addresses respect and disrepute which are not addressed in the Council's Code in the same way.
- Both LGA Code and the Council's Code deal with bullying, harassment and discrimination, but in slightly different ways with the latter reminding members of their obligations to comply with Part 5B of the Constitution in their interactions with officers. Part 5B includes bullying, harassment and discrimination matters.
- The Council's Code specifically places a duty on Members when carrying out their public duties to make all choices, such as making public appointments, determining applications, awarding contracts or recommending individuals for rewards or benefits, on merit without discrimination or bias. The LGA Code does not make the avoidance of bias a specific obligation placed on Councillors.

- The LGA Code places an obligation on Members not to compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority. The Council's Code deals with this requirement in the Part 5B of the Constitution, which is discussed in paragraph 3.20 above and is incorporated into the Code of Conduct.
- The LGA Code includes a specific section which re-iterates some of the legal rules in relation to confidentiality and access to information. The Council's Code does not address confidentiality and access to information. The statutory obligations which are placed on officers, Councillors and the Council in general are set out in full in the Council's Constitution at Part 4B. Any re-interpretation of the Access to information procedure rules which apply as part of a revised Code will need to be in line with the statutory and common law requirements already delineated in Part 4B but if expanded in any code revision, may require amendments to Part 4B to be undertaken. Such matters as amendments to the Constitution are matters reserved to full council.
- In relation to use of position, the LGA code requires a member not to use, or attempt to use, their position improperly to the advantage or disadvantage of themselves or anyone else. The Council's Code requires more of a Member than the LGA Code in this regard, namely it requires that the member must act solely in the public interest and "should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate."
- Broadly similar provision is made in both the LGA Model Code and the Council's Code in relation to use of Council resources, including for political purposes however the Council's Code of conduct goes further and specifically references the obligations imposed by Local Authority Code of Publicity made under the Local Government Act 1986, which, particularly during pre-election periods, is of particular sensitivity.
- The LGA Code provides that

"As a Councillor:

I undertake Code of Conduct training provided by my local authority.

I cooperate with any Code of Conduct investigation and/or determination.

I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct."

There are no comparable provisions to the above in the Council's current Code although a number of specific committee related training requirements are imposed on members under the Constitution before they are eligible to sit on certain committees – such as on Planning and Licensing.

- In relation to declaration of interests, the LGA Code simply provides that the councillor “register and disclose my interests”. This is followed in the discursive section by detailing requirements in appendices to the Code including those which are statutory and those which are not. The Council's Code of Conduct specifically requires declaration of particular types of interests within the statutory time frames. These requirements are set out in Section 3 of the Council's Code of Conduct.

It should be noted that if the LGA Code is adopted it will require a revision of Councillors' register of interests and the forms used for this purpose as the LGA Code, as detailed in paragraphs 3.11 and 3.12 above, makes different delineations regarding interests than is currently the case. The form of register was previously approved by Full Council for use in its current form.

- Gifts and hospitality have a slightly different emphasis in the LGA Code when compared the Council's Code of Conduct. The LGA Code requires that as a matter of course a councillor does not accept gifts or hospitality where this could give rise to a “real or substantive personal gain or reasonable suspicion of influence to show favour. Where any significant gift or hospitality has been refused, this is required to be notified to the Monitoring officer and the Member is required to register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt. The Council's code of conduct requires declaration not only of any gift or hospitality received over £50 but also of multiple gifts and/or instances of hospitality with a cumulative value of £50 or more when received from a single donor within a rolling twelve month period. The LGA code would only capture more significant gifts/hospitality, whereas the Council's code acknowledges that a number of small gifts/hospitality over a period of time could just as easily give rise to a perception of seeking to influence a Member. In addition, under the Council's code a member must not place themselves under a financial or other obligation to outside individuals or organisations that might seek to influence them inappropriately in the performance of their official duties – this is obviously broader than simply gifts and hospitality.
- Whilst the LGA Code includes the Nolan Principles as an appendix, they are not specifically discussed as part of the Code. In contrast in the Council's Code of Conduct, not only are the 7 principles set out as obligations but the specific duties within section 2 of the Council's code reflect the discursive element of the 7 principles as set out by Nolan. These form the basis of the requirements placed on Councillors in Section 2 of the Council's Code.

Additional matters recommended for inclusion into LGA Model Code if adopted:

3.24 As detailed above there are matters which are not addressed as fulsomely or clearly in the LGA Code when compared to the Council's Code in addition, there are matters which are not addressed at all in the LGA code and which are recommended to be included in any Code considered by Members for recommendation to Full Council. These matters include:

- Predetermination and Bias.
- Reference to the Nolan Principles in full within the Code. Currently LGA Code has the Nolan Principles as Appendix A to the Code but no reference is made within the Code itself to Appendix A, whilst the Council's code includes such a reference and the discursive element of the principles within the body of the obligations placed on Members.
- Reference to the time frames within which registration of interests is required, including notification of changes to the Monitoring Officer.
- To require declaration not only of any gift or hospitality received over £50 but also any multiple gifts and/or instances of hospitality with a cumulative value of £50 or more when received from a single donor within a rolling twelve month period.
- To maintain reference in the Code to the requirements around Part 5B of the Council's Constitution- Council's Protocol on Staff - Councillor Relations and adherence to that protocol's principles.
- To reference the requirements around access to information as detailed in Part 4B of the Constitution which ties in with the recent access to information guidance which has been prepared for Members.
- To reference and require compliance with the Recommended Code of Practice on Local Authority Publicity made under the Local Government Act 1986 as is currently the case in the Code.
- To make clear that improper use of position includes that a member should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for themselves, their family, a friend or close associate.
- That a member must not place themselves under a financial or other obligation to outside individuals or organisations that might seek to influence them inappropriately in the performance of their official duties.
- Social media and principles for use. Elsewhere on this agenda the Committee is receiving a report in relation to a Social media Guide for Members however this could be strengthened by incorporation into the Code of Conduct of a set of principles around social media. Some suggested principles for consideration are included at Appendix C.

- The requirement to have regard to advice from the Monitoring Officer and Section 151 officer.
- The requirement to give reasons for decisions (this is covered in the Council's Code of Conduct but not in the LGA Code).
- Warnings about potential personal liability where members fail to act in the Council's interests.
- To make clear when co-optees are caught by the members' code of conduct and when co-optees are covered by the Code of Conduct for Non-voting Co-optees adopted by the Council as the current Code and code of conduct for non-voting co-optees currently does.

Legal requirements:

- 3.25 The statutory obligation in terms of the Code of Conduct is set out in Section 28 of the Localism Act 2011 and provides that a relevant authority must secure that a code adopted by it under section 27(2) is, when viewed as a whole, consistent with the following principles—
- (a) selflessness;
 - (b) integrity;
 - (c) objectivity;
 - (d) accountability;
 - (e) openness;
 - (f) honesty;
 - (g) leadership.
- In other words, the Nolan principles.
- 3.26 The Council's Code must secure that its code of conduct includes the provision the authority considers appropriate in respect of the registration in its register, and disclosure, of—(a) pecuniary interests, and (b) interests other than pecuniary interests.
- 3.27 Section 28 (5) provides that a relevant authority may—
- (a) revise its existing code of conduct, or
 - (b) adopt a code of conduct to replace its existing code of conduct.

However the function of adopting, revising or replacing a code of conduct may be discharged only by the authority – in other words, it is a function reserved to Full Council.

- 3.28 A relevant authority must publicise its adoption, revision or replacement of a code of conduct in such manner as it considers is likely to bring the adoption, revision or replacement of the code of conduct to the attention of persons who live in its area. It will also be necessary to ensure that Councillors are made aware of, and involved with the proposals to ensure member buy-in and willingness to comply.

3.29 In considering the appropriate actions, Members attention is drawn to the fact that the Localism Act, unlike the Local Government Act 2000 provisions does not make provision for any substantial sanctions – for example there is no ability to suspend a Councillor under these provisions and other actions under Section 28 (11) are quite limited in scope and would require legislative amendment as recommended by the CSPL. In addition, despite the recommendations coming out in January 2019, there has yet to be any governmental indication of any legislative changes to facilitate and support the proposed LGA Model Code of Conduct and any such legislative changes may well alter the ethics landscape and parameters of a Code.

4. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

4.1 There are no direct financial implications arising from this report. Implementation of the recommendations contained in this report shall be contained within existing budgets.

Approved by: Geetha Blood, interim Head of Finance on behalf of the Director of Finance Investment and Risk.

5. LEGAL CONSIDERATIONS

5.1 There are no additional legal considerations arising from the contents of this report which are not set out in the body of the report.

Approved by: Sandra Herbert, Head of Litigation and Corporate Law on behalf of the Director of Law and Governance and Deputy Monitoring Officer.

6. CONSULTATION

6.1 Whilst the Council renewal plan has been the subject of engagement and consultation with both members of the public and officers within the authority, the recommendations within this report, which address one of the elements within the Council's renewal plan, have not been separately consulted on.

7. HUMAN RESOURCES IMPACT

7.1 There are no HR implications arising from the recommendations in this report.

Approved by: Sue Moorman, Director of Human Resources

8. EQUALITIES IMPACT

8.1 There are no direct equalities impacts arising from the recommendations in the report. An Equalities Analysis will be prepared to allow equality consideration

and potential impact by members alongside any proposed revised Code to be presented to a later meeting of the Committee for consideration and onward recommendation to Full Council.

Approved by: Yvonne Okiyo, Equalities Manager.

9. ENVIRONMENTAL IMPACT

- 9.1. There are no environmental impacts arising from the recommendations within this report.

10. CRIME AND DISORDER REDUCTION IMPACT

- 10.1 There are no crime and disorder reduction impacts arising from the recommendations within this report.

11. DATA PROTECTION IMPLICATIONS

11.1 WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?

NO

As part of the statutory requirements placed on Members and Co-opted Members, there are requirements to make declarations of interests which are, in turn, published on the Council's website subject to such an interest being a "sensitive" interest as defined in the Localism Act 2011. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.

Where a member has a 'sensitive interest' they are required to notify the Monitoring Officer with the reasons why they believe it is a sensitive interest. If the Monitoring Officer agrees that the matter is a sensitive interest, the Monitoring Officer will withhold the interest from the public register.

HAS A DATA PROTECTION IMPACT ASSESSMENT (DPIA) BEEN COMPLETED?

To be completed as detailed below

The Executive Director Resources and Deputy Monitoring Officer (Interim) comments that whilst the proposed changes to the Code do not change the statutory obligations on members to make disclosures of interests or the requirements that such interests be published (including being available on the Council's website and the exceptions regarding sensitive interests) it is considered appropriate to undertake a revised DPIA and to update the Privacy Notices which are associated with registration of interests under the Code of Conduct to coincide with the Code of Conduct refresh. These updates will be prepared in advance of the upcoming report to Members with the draft Code documents as detailed in the recommendations.

CONTACT OFFICER: Sandra Herbert, Head of Litigation and Corporate Law and Deputy Monitoring Officer.

APPENDICES TO THIS REPORT

Appendix A – Council’s Code of Conduct for Members

Appendix B – LGA Model Code of Conduct

Appendix C – Social Media principles

BACKGROUND DOCUMENTS: None

CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

PART 5.1

MEMBERS' CODE OF CONDUCT

1. You are a member or co-opted member of the London Borough of Croydon or a Member of the Health and Wellbeing Board or Pensions Board and as such you shall have regard to the following principles – selflessness, integrity, objectivity, accountability, openness, honesty and truthfulness, leadership and undertake to observe this Code when acting in your capacity as a member or co-opted member.

2. When acting in your capacity as a member or co-opted member:-

i) You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.

ii) You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you inappropriately in the performance of your official duties.

iii) When carrying out your public duties you must make all choices, such as making public appointments, determining applications, awarding contracts or recommending individuals for rewards or benefits, on merit without discrimination or bias.

iv) You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office as determined by the Council.

v) You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.

vi) You must declare any private interests, both pecuniary and non-pecuniary, which relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest. This means you must register and declare the interests set out in paragraph 3 below, in a manner conforming with the procedures set out therein.

vii) You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political

purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

viii) You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example, including not doing anything which breaches the equalities legislation and observing the Council's Protocol on Staff - Councillor Relations.

3. Registering and disclosing pecuniary and non-pecuniary interests

i) You must, within 28 days of taking office as a member or co-opted member, notify the Council's Monitoring Officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

ii) In addition, you must, within 28 days of taking office as a member or co-opted member, notify your authority's Monitoring Officer of any disclosable pecuniary or non-pecuniary interest which the Council has decided should be included in the register. For these purposes the Council has determined that you will disclose any gift(s) or hospitality the value of which exceeds £50 or multiple gifts and/or instances of hospitality with a cumulative value of £50 or more when received from a single donor within a rolling twelve month period.

iii) If an interest described in (i) above has not been entered onto the Council's register, or is not pending inclusion on the register following your notification to the Monitoring Officer then you must disclose the interest to any meeting of the Council at which you are present, where you have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'.¹

iv) Following any disclosure of an interest not on the Council's register or the subject of pending notification, you must notify the Monitoring Officer of the interest within 28 days beginning with the date of disclosure.

v) Unless a dispensation has been granted, you may not participate in any discussion of, vote on or discharge any function related to any matter in which you have a disclosable pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions the Council places on your involvement in matters where you have a pecuniary or non-pecuniary interest as defined by the Council.

Adopted July 2012, revised January 2017
As amended Jan 2020

LGA DRAFT CODE OF CONDUCT

Definitions

For the purposes of this Code of Conduct, a “councillor” means a member or co-opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “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”.

For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London Borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

General principles of councillor conduct

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the Seven Principles of Public Life, also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

Application of the Code of Conduct

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings

- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice you're your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

Standards of councillor conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

General Conduct

The general conduct guidance follows below:

1. Respect

As a councillor:

1.1 I treat other councillors and members of the public with respect.

1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views

are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

2. Bullying, harassment and discrimination

As a councillor:

2.1 I do not bully any person.

2.2 I do not harass any person.

2.3 I promote equalities and do not discriminate unlawfully against 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.

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.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

3. Impartiality of officers of the council

As a councillor:

3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

4. Confidentiality and access to information

As a councillor:

4.1 I do not disclose information:

- a) given to me in confidence by anyone**
- b) acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
 - i. I have received the consent of a person authorised to give it;**
 - ii. I am required by law to do so;**
 - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
 - iv. the disclosure is:**
 - 1. reasonable and in the public interest; and**
 - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and**
 - 3. I have consulted the Monitoring Officer prior to its release.**

4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.

4.3 I do not prevent anyone from getting information that they are entitled to by law.

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

5. Disrepute

As a councillor:

5.1 I do not bring my role or local authority into disrepute.

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/it's functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

6. Use of position

As a councillor:

6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

7. Use of local authority resources and facilities

As a councillor:

7.1 I do not misuse council resources.

7.2 I will, when using the resources of the local or authorising their use by others:

- a) act in accordance with the local authority's requirements; and**
- b) ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

8. Complying with the Code of Conduct

As a Councillor:

8.1 I undertake Code of Conduct training provided by my local authority.

8.2 I cooperate with any Code of Conduct investigation and/or determination.

8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

Protecting your reputation and the reputation of the local authority

9. Interests

As a councillor:

9.1 I register and disclose my interests.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

10. Gifts and hospitality

As a councillor:

10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.

10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.

10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality.

However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

Appendix A – The Seven Principles of Public Life

The principles are:

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try to inappropriately influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Appendix B Registering Interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

"Disclosable Pecuniary Interest" means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

"Partner" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.

2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.

3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise

of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it

Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

8. Where a matter arises at a meeting which **affects** –

- a. your own financial interest or well-being;
- b. a financial interest or well-being of a relative, close associate; or
- c. a body included in those you need to disclose under Other Registrable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9. Where a matter **affects** your financial interest or well-being:

- a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
- b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. Where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must make sure that any written statement of that decision records the existence and nature of your interest.

Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the Relevant Authorities (Disclosable Pecuniary Interests Regulations 2012).

Subject	Description
Employment, office, trade, profession or vocation	<p>Any employment, office, trade, profession or vocation carried on for profit or gain.</p> <p>[Any unpaid directorship.]</p>
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
Contracts	<p>Any contract made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which</p>

Subject	Description
	<p>such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council —</p> <p>(a) under which goods or services are to be provided or works are to be executed;</p> <p>(b) band which has not been fully discharged.</p>
Land and property	<p>Any beneficial interest in land which is within the area of the council.</p> <p>‘Land’ excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor or is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income</p>
Licenses	<p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer</p>
Corporate tenancies	<p>Any tenancy where (to the councillor’s knowledge)—</p>

Subject	Description
	<p>(a) the landlord is the council; and</p> <p>(b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</p>
<p>Securities</p>	<p>Any beneficial interest in securities* of a body where—</p> <p>a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and</p> <p>b) either—</p> <p>i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the councillor or is living as if they were spouses/civil partners has</p>

Subject	Description
	a beneficial interest exceeds one hundredth of the total issued share capital of that class

- 'director' includes a member of the committee of management of an industrial and provident society.
- 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Table 2: Other Registerable Interests

You have a personal interest in any business of your authority where it relates to or is likely to affect:

- a) any body of which you are in general control or management and to which you are nominated or appointed by your authority
- b) any body
 - i) exercising functions of a public nature
 - ii) any body directed to charitable purposes or
 - iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

Suggested Principles on Social Media for Inclusion in Code of Conduct

1. Principles of integrity, professionalism, privacy, and impartiality should be observed when posting.
2. Posting items to social media is publication for the purposes of the laws of defamation and intellectual property.
3. Proper copyright and reference laws should be observed when posting on-line.
4. When posting on your own social media accounts and referencing the Council or your role as a Councillor be clear about the capacity in which you are posting, for example clearly stipulating that your views are personal and purely your own.
5. Discriminatory content is prohibited and may be unlawful and criminal.
6. Be mindful of the Council's duties towards employees and others.
7. You must not disclose any information which is contrary to data protection laws, is sensitive or confidential in nature including financial, operational, and legal information as well as personal information pertaining to employees, clients, service users or third parties.
8. You should be mindful of giving rise to a perception of bias or predetermination where you are the decision maker, a member of the decision making body or are advising the decision maker.
9. You should show respect for other's opinions. That does not mean you cannot disagree but do so in a manner which is appropriate – think about how you might interact if this were an in person conversation. Where individuals are expressing dissatisfaction about the Council you may be able to direct them to the right place to make their complaints.
10. You should uphold the code of conduct when using social media and have regard to any guidance issued to Councillors from time to time by the Council in this regard.