

## ITEM 10 – Appendix 1

	Issue raised in LGA consultation	DCC Consultation Response	LGA Model Code of Conduct	DCC Councillors' Code of Conduct	Suggested Action
<b>Part 1 - Application of the Code</b>  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.					
1	<b>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?</b>	To a great extent	Application of the Code of Conduct is reflected on p3 of the LGA Model Code.  It applies when acting in the capacity of a councillor or giving the impression of acting as a councillor.  It applies to all forms of communication such as face to face, written, verbal and online interactions, including social media.	Acting in the capacity of a councillor or giving the impression of acting as a representative of the authority is covered in paragraphs 2.1 to 2.5 of the Councillors' Code of Conduct.  Further guidance on what constitutes acting in the capacity of a councillor is provided in Appendix D of the Councillor Complaints Procedure.	Recommended that a summary of information contained within Appendix D of the Councillor Complaints Procedure, relating to acting in the capacity of a councillor, is included within the substantive Code of Conduct.
2	<b>Is it sufficiently clear which parts of the Model Code are legal requirements, which are obligations, and which are guidance?</b>	Yes	Obligations are highlighted within the Model Code in bold text, with accompanying guidance included underneath each obligation.  Legal requirements with regards to the registration of interests are detailed in Appendix B.	No distinction is currently made within the Councillors' Code of Conduct between statutorily required and locally agreed provisions, except for the criminal offences detailed in 11.1 and 11.2.	No further action recommended.
3	<b>Do you prefer the use of the personal tense, as used in the Code, or would you prefer the passive tense?</b>	Personal tense ("I will")	The Model Code of Conduct is written in the personal tense.	The Councillors' Code of Conduct is written in a tense that addresses the councillor directly – e.g. 'You will...'	No further action recommended.
<b>Part 2 – Specific Obligations</b>  The Code lists <u>12 specific obligations</u> – 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.					
4	<b>To what extent do you support the 12 specific obligations?</b>	We supported all 12 specific obligations to a great extent	All of the 12 specific obligations are reflected in the Model Code of Conduct under paragraphs one to ten, with	The twelve obligations detailed in the Model Code are currently reflected as follows in the Councillors' Code of Conduct:	Recommended that the structure of the existing obligations in the Code of Conduct is reviewed – all locally agreed provisions

	<p>1. <i>Treating other councillors and members of the public with civility.</i></p> <p>2. <i>Treating council employees, employees and representatives of partner organisations and those volunteering for the councils with civility and respecting the role that they play.</i></p> <p>3. <i>Not bullying or harassing any person.</i></p> <p>4. <i>Not compromising, or attempting to compromise, the impartiality of anyone who works for, or on behalf of, the council.</i></p> <p>5. <i>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.</i></p> <p>6. <i>Not preventing anyone getting information that they are entitled to by law.</i></p> <p>7. <i>Not bringing my role or council into disrepute.</i></p> <p>8. <i>Not using, or attempting to use, my position improperly to the advantage or disadvantage of myself or anyone else.</i></p> <p>9. <i>Not misusing council resources.</i></p> <p>10. <i>Registering and declaring my interests.</i></p> <p>11. <i>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.</i></p> <p>12. <i>Registering with the monitoring officer any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt.</i></p>		<p>accompanying guidance included (pages 4 to 9).</p> <p>In addition, paragraph 8 includes requirements for councillors to undertake training, co-operate with standards investigations and accept sanctions. These reflect the Best Practice recommendations received from the Committee on Standards in Public Life.</p>	<ol style="list-style-type: none"> <li>1. Par. 3.1 – treating others with respect – no distinction made between councillors, employees, members of the public etc.</li> <li>2. As above.</li> <li>3. Par. 3.2 – you must not bully or harass any person.</li> <li>4. Par. 3.2 – do anything that compromises the impartiality of those you work for or your authority.</li> <li>5. Par 4.1(a) – disclose information given to you in confidence.</li> <li>6. Par 4.1(b) – prevent another person from gaining access to information to which that person is entitled by law.</li> <li>7. Par. 5.1 – conduct yourself in a manner that could easily be regarded as bringing your office or authority into disrepute.</li> <li>8. Par. 6.1(a) – using position to confer an advantage or disadvantage, including specific provisions in relation to licensing functions.</li> <li>9. 6.1(b) – must ensure resources are not used improperly, including for political purposes.</li> <li>10. Declaration of Interests is reflected in Part 2 of the Councillors’ Code of Conduct.</li> <li>11. Gifts and hospitality are reflected in Part 2 of the Councillors’ Code of Conduct (Par. 12.1 and 12.2).</li> <li>12. As above.</li> </ol>	<p>should be retained, but changes should be proposed to bring wording of general obligations into line with the Model Code of Conduct.</p> <p>A working Group of Derbyshire Monitoring Officers and Deputies are currently reviewing the Model Code and have suggested that consistent language is applied to general obligations, allowing more effective inter-authority consultation on challenging or complex complaints.</p>
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5	<b>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?</b>	Each specific obligation followed by its relevant guidance	The Model Code of Conduct lists each obligation followed by its relevant guidance.	No distinction is made within the existing Councillors' Code of Conduct between obligations and guidance.	Guidance to be incorporated as detailed above.
6	<b>To what extent to you think the concept of 'acting with civility' is sufficiently clear?</b>	To a great extent	Reference to civility has been replaced with alternative wording, emphasising integrity, honesty, lawfulness, fairness, respect and leading by example.  Respect is defined as politeness and courtesy in behaviour, speech and the written word.	The concept of civility is not detailed within the existing Code of Conduct. Instead, the Code refers to treating others with 'respect'.	Recommend that definition of respect as detailed in the Model Code is incorporated.  Suggestions that complimentary concepts of integrity, honesty, lawfulness, fairness etc. are developed as part of suggested wider review of general obligations.
6a	<b>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:</b>	Whilst we agree that civility broadly captures the behaviours that we would expect councillors to demonstrate, we think that the concept of politeness and treating others with due respect should be reiterated - whilst similar, they remain distinct concepts and these definitions should be addressed in the Code.	See above – the Model Code emphasises a broader range of behaviours that relate to civility.	As above.	As above.
7	<b>To what extent do you think the concept of 'bringing the council into disrepute' is sufficiently clear?</b>	To a small extent	Disrepute is covered in paragraph 5 of the Model Code of Conduct (page 7).	No supporting detail is currently provided in relation to bringing the Council into disrepute.	Recommend paragraph 5.1 to be further developed, including incorporation of wording from Model Code on constructive challenge (see below).
7a	<b>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:</b>	The definition contained within the Code is not far-reaching enough. There are other ways in which the Council may be brought into disrepute beyond deceitful or dishonest behaviour. For example, failure to treat others with respect in a public forum could also be interpreted as such.	The accompanying guidance at paragraph 5 includes behaviours that would constitute bringing the role or the authority into disrepute.  It emphasises that councillors can constructively challenge and express concern about decisions and processes whilst remaining within the obligations set out in the Code.	As above.	As above.
8	<b>To what extent do you support the definition of bullying and harassment used in the code in a local government context?</b>	To a great extent	The Model Code reflects the definitions of bullying used by ACAS and harassment as defined in the Equality Act 2010.	The Councillors' Code of Conduct already uses the definitions used by ACAS and defined in the Equality Act in its current form.	No changes recommended.
9	<b>Is there sufficient reference to the use of social media?</b>	No	Social Media is referenced on four occasions within the Model Code.	There is currently no reference to Social Media in the Councillors' Code of Conduct.	Recommend that explicit reference to social media and examples are incorporated within the Councillors' Code of Conduct.
9a	<b>Should social media be covered in a separate code or integrated into the overall code of conduct?</b>	Integrated into the Code	Reference to Social Media is integrated within the Model Code.	As above.	As above.

9b	<b>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:</b>	Complaints relating to social media constitute a significant proportion of those received - we would like to see reference to social media integrated within all parts of the code as appropriate, together with its own specific sub-section.	There is no specific sub-section relating solely to social media. The accompanying guidance does not provide significant detail as to examples of behaviour whilst using social media that would constitute a breach of the Code.	As above.	N/A
<b>Part 3 - Registration and declarations of interests</b>  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 <b>Appendix B</b> of the Code.					
10	<b>To what extent to you support the code going beyond the current requirement to declare interests of the councillor and their partner?</b>	To a great extent	<p>Appendix B of the Model Code provides detailed guidance in relation to Disclosable Pecuniary Interests.</p> <p>The Model Code also introduces the concept of ‘Other Registerable Interests’ which requires councillors to register interests relating to any body of which they are in general control or management and to which they are nominated or appointed by their authority; and, any body exercising functions of a public nature, directed to charitable purposes or whose principle purpose is to influence public opinion or policy.</p> <p>Further guidance is provided on the declaration of non-registerable interests at meetings, including as they relate to relatives and close associates.</p>	The Councillors’ Code of Conduct reflects the current statutory requirements defined in the Localism Act 2011 for the declaration of disclosable pecuniary interests.	Recommend concept of ‘Other Registerable Interests’ as defined in the Model Code is incorporated within the Councillors’ Code of Conduct.
11	<b>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?</b>	No preference	<p>General obligations relating to the disclosure of interests are detailed at paragraph 9 within the main body of the Model Code.</p> <p>Detailed guidance is provided within Appendix B.</p>	Declarations of Interest are covered in a separate section of the Councillors’ Code of Conduct to the other obligations (Parts 2 and 3).	Recommend Declarations of Interest remain within a separate section of the Councillors’ Code of Conduct.
It is also suggested that more outside interests should be registered than is the current statutory minimum. These are set out in <b>Table 2 of the Appendix</b> and are designed to demonstrate to the community transparency about other bodies with which the councillor is engaged.					

12	<p><b>To what extent do you support the inclusion of these additional categories for registration?</b></p> <p><b>1 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</b></p> <p><b>2 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</b></p> <p><b>3 Any organisation, association, society or party directed to charitable purposes</b></p> <p><b>4 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)</b></p>	We supported the inclusion of each of the additional categories to a great extent	Each of the additional categories is reflected within Table 2 of Appendix B, relating to 'Other Registerable Interests'.	The Councillors' Code of Conduct currently includes the categories of disclosable interests as they are defined in the Localism Act 2011.	As above. Recommend other registerable interests are incorporated.
13	<b>If you would like to propose additional or alternative categories for registration, please provide them here:</b>	We would like to see specific reference to trade bodies included within the categories listed.	Whilst not explicitly referenced, trade bodies to which councillors were appointed would be covered under the definition of Other Registerable Interests (e.g. exercising functions of a public nature or intended to influence public policy).	As above.	N/A
14	<b>To what extent do you support the proposed requirement that councillors do not accept significant gifts as set out in the Code?</b>	To a great extent.	Gifts and Hospitality are covered under paragraph 10 of the Model Code, which requires that councillors do not accept gifts or hospitality, irrespective of value, that could give rise to substantive personal gain or a reasonable suspicion of influence.	There are requirements relating to the declaration gifts and hospitality above a particular limit, however nothing is currently included that suggests that councillors should not receive significant gifts or hospitality.	Recommendation that the requirement not to accept significant gifts is incorporated within the Councillors' Code of Conduct.
15	<b>The draft code proposes £25 as the threshold for registering gifts and hospitality. Is this an appropriate threshold?</b>	Yes, but the amount should be reviewed annually with the code's review	In contrast to the consultation, the Model Code now includes a requirement for gifts and hospitality with a value of at least £50 to be declared within 28 days of receipt.	The current limit for declaring gifts and hospitality within the Councillors' Code of Conduct is £100.	Recommend reduction of limit to £50 in line with the Model Code.
<b>Part 4 – Further guidance and final comments</b>					

16	<p><b>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.</b></p> <table><tr><td><b>A</b></td><td><b><i>Case studies and examples of good practice</i></b></td></tr><tr><td><b>B</b></td><td><b><i>Supplementary guidance that focuses on specific areas, e.g., social media</i></b></td></tr><tr><td><b>C</b></td><td><b><i>Explanatory guidance on the code</i></b></td></tr><tr><td><b>D</b></td><td><b><i>Regularly updated examples of case law</i></b></td></tr><tr><td><b>E</b></td><td><b><i>Improvement support materials, such as training and e-learning packages</i></b></td></tr></table>	<b>A</b>	<b><i>Case studies and examples of good practice</i></b>	<b>B</b>	<b><i>Supplementary guidance that focuses on specific areas, e.g., social media</i></b>	<b>C</b>	<b><i>Explanatory guidance on the code</i></b>	<b>D</b>	<b><i>Regularly updated examples of case law</i></b>	<b>E</b>	<b><i>Improvement support materials, such as training and e-learning packages</i></b>	<p>The suggested guidance was ranked as follows:</p> <p>A – 1<sup>st</sup> B – 2<sup>nd</sup> C – 3<sup>rd</sup> D – 4<sup>th</sup> E – 5<sup>th</sup></p>	<p>Additional guidance has yet to be issued.</p>	<p>N/A</p>	<p>N/A</p>
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17	<p><b>If you would like to suggest any other accompanying guidance please do so here:</b></p>	<p>All of the above guidance would be welcomed.</p>	<p>As above.</p>	<p>N/A</p>	<p>N/A</p>										
18	<p><b>If you would like to make any further comments about the code please so here:</b></p>	<p>Derby City Council would support a broader review of available sanctions for those found in breach of the Code. More flexibility should be provided to Monitoring Officers to introduce financial penalties (such as withholding allowances) for the most serious breaches or those who consistently fail to fulfil their obligations under the Code.</p>	<p>The Code includes a requirement to comply with sanctions applied following an investigation.</p> <p>Although referenced in the report of the Committee on Standards in Public Life, the Model Code does not include any new detail in relation to sanctions.</p>	<p>Specific sanctions are not currently detailed in the Code of Conduct or the Councillor Complaints Procedure.</p>	<p>N/A</p>										