

Audit & Governance Committee

22 February 2021

Councillor Code of Conduct Arrangements

For Recommendation to Council

Local Councillor(s): All Councillors

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Report Status: Public

Recommendation:

That the Committee recommend that the Full Council:

1. Adopt the Local Government Association Model Councillor Code of Conduct including those provisions of the Model Code relating to other registrable interests.
2. Invite Dorset's Town and Parish Councils to consider adopting the LGA Model Code.
3. Adopt the proposed new arrangements for dealing with Code of Conduct complaints against Councillors

And

That the Committee resolves that it should be updated at each of its meetings about code of conduct complaints received and that an annual monitoring report should be presented in May each year.

Reason for Recommendation:

To support councillors in maintaining high standards of conduct and to ensure a proportionate approach to the assessment and hearing of complaints against councillors.

1. Executive Summary

This report is in two parts. The first part makes recommendations about the adoption of a new councillor code of conduct. The second part recommends new arrangements for the assessment and hearing of complaints that councillors have breached the code.

The proposals considered in this paper concern how councillors should behave and how any complaints that councillors have not behaved as they should can be made, how they are assessed and investigated.

This paper does not concern the separate legal requirements governing councillor's disclosable financial interests – these are specified in law and alleged breaches are investigated by the police.

Part 1 - Proposed adoption of a new Councillor Code of Conduct:

[The Localism Act 2011](#) requires that Dorset Council (as a relevant local authority) must promote and maintain high standards of conduct by its members. To help achieve this there is a particular requirement that the Council must adopt a code dealing with the conduct expected of councillors when they are acting in that capacity.

Ahead of the formation of Dorset Council on 1 April 2019 the Shadow Authority adopted the code of conduct included as appendix 1.

Although very few conduct complaints have been made against Dorset Council Councillors it is important that as part of promoting high standards of conduct the Council should review its code against what is regarded as best practice.

As part of its work in supporting all tiers of local government to continue to maintain high standards of leadership and performance the Local Government Association (LGA) has recently completed work to develop a [new model councillor code of conduct](#), included as appendix 2. The LGA sees a link between high standards of leadership and high performance and it is in this context that the new model code has been developed and is now recommended for adoption.

After a proposed joint statement, introductory text and definitions the code includes paragraphs or sections addressing purpose, general principles and

application. It then goes on to address the minimum standards of behaviour expected of all councillors. It does this in ten main sections based upon the principles of conduct in public life.

My experience is that members of the public and councillors can sometimes be confused about the circumstances in which the Code applies. The section of the new model code dealing with application of the code provides more detail than previously about the circumstances in which the requirements of the code apply to councillors and under “Application of the Code of Conduct” it lists 4 situations when the code would apply, including where a councillor gives the impression they are acting as a councillor or council representative, but also when they refer publicly to their role or use knowledge they could only obtain in their role as councillor.

The model code is also helpfully direct in the application of its requirements to individual members in a series of “As a councillor I...” statements.

The Localism Act leaves councils free to adopt their own codes of conduct, restricted only by the need for any code to be consistent with the principles of conduct in public life. In line with this freedom the LGA advises that the model code is a template for authorities to adopt either in whole or with local amendments.

One particular part of the model that members are invited to consider is the inclusion of a new category of “other registrable interests” and proposed restrictions on participation when a councillor has such an interest (see paragraphs 6 and 7 of Appendix B to the proposed model code). At present councillors are required only to comply with the legal minimum by disclosing your “disclosable pecuniary interests” and these are interests of yourself and your spouse or partner only. The proposed model goes further in defining a new category of other registrable interests and by bringing within scope the interests of relatives or “close associates”. As a result the financial and well-being interests of the councillor, friend, relative, close associate and body would become disclosable.

There is value in a consistent approach across Dorset and many Parish and Town Councils followed Dorset Council’s lead by adopting our current code. It is suggested that if Dorset Council does adopt the LGA Model Code then Towns and Parishes should be invited to consider adopting the same code.

Part 2 – Arrangements for dealing with Code of Conduct complaints against Councillors:

Dorset Council has operated arrangements for the assessment and investigation of complaints for almost two years.

Based upon our experience to date this report recommends what are thought to be more proportionate arrangements, ones designed to ensure that complaints are addressed formally and that councillors and complainants are treated fairly.

As at present, the proposed arrangements make no distinction between Dorset Council Councillors and Parish and Town Councillors - the procedure to be followed, the assessment criteria and hearing arrangements.

The main differences between the current and proposed new arrangements concern:

- Greater clarity: The proposed new procedure includes a straightforward flow chart illustrating at a glance how the procedure operates. It also describes in a more structured way than the previous procedure:
 - Who can be complained about
 - What can be complained about
 - What cannot be complained about and
 - How to complain
- Anonymity and confidentiality: As at present, any complaint should be in writing and anonymous complaints would not be accepted. As under the current arrangements there is the ability for a complaint to be made confidentially so that only the Monitoring Officer and the Independent Person know the identity of the complainant but this is now exceptional. In fairness to the councillor complained about the expectation is that the councillor should know who has complained about them.
- Emphasis on local resolution: Experience has shown that people move too quickly to escalate complaints about Parish and Town Councillors to Dorset Council without attempting a local or informal resolution. The proposed new arrangements place greater emphasis upon local resolution, giving examples of where this might be appropriate.
- How complaints are assessed: At present complaints are assessed by the Monitoring Officer in consultation with an Independent Person and three Dorset Council Councillors. The arrangements can be cumbersome and time consuming and there is no opportunity for a councillor to provide initial comments on a complaint. The proposed new arrangements would see complaints assessed by the Monitoring Officer in consultation with an Independent Person. The new arrangements are linked to stricter timescales for informing complainants and councillors about complaints and include an opportunity for the councillor complained about to respond at the assessment stage.
- A single stage approach to hearings: At present the Hearings Sub-Committee conducts a two stage hearing, the arrangement for which can give an impression of unnecessary duplication. The proposed arrangements provide for a single stage hearing.
- How complaints are monitored: At present there are no monitoring arrangements and there is no formal learning from complaints. It is

proposed that the Audit and Governance Committee will be updated at each of its meetings and that the May meeting will receive an annual report.

2. Financial Implications

No new financial implications for the purposes of this report.

3. Well-being and Health Implications

No well-being and health implications have been identified in preparing this report.

4. Climate implications

No climate implications have been identified in preparing this report.

5. Other Implications

None.

6. Risk Assessment

Having considered the risks associated with this decision, the level of risk has been identified as:

Current Risk: Low

Residual Risk: Low

7. Equalities Impact Assessment

This report raises no equalities implications, providing a common code of conduct and framework applicable to all councillors.

8. Appendices

Appendix 1 – the current Dorset Council Councillor Code of Conduct

Appendix 2 – [the proposed LGA Model Code of Conduct](#)

Appendix 3 – the current procedure for the Assessment and Hearing of Complaints

Appendix 4 – the proposed new Arrangements for dealing with Code of Conduct complaints against Councillors

9. Background Papers

None.