

MEMBER'S CODE OF CONDUCT

AGENDA ITEM No. 12

MEETING: COUNCIL

DATE: 28th JULY 2021

REPORT BY: TOWN CLERK

1.0 Purpose of the Report

- 1.1 The purpose of the report is to seek consideration from members for the possible update of the Council's Members' Code of Conduct to bring it in line with the updated Durham County Council Code of Conduct.

2.0 Background to the Report

- 2.1 Members may be aware that the Local Government Association published a new Model Members' Code of Conduct in December 2020.
- 2.2 This followed on from the recommendations of the Committee on Standards in Public Life (CSPL) report on Local Government Ethical Standards in January 2019. The CSPL report identified a series of recommendations, some requiring the introduction of primary legislation and others 'suggested best practice'.
- 2.3 There has been a lukewarm sector response to the Model Code as many principal council monitoring officers consider it to be less robust than current codes and with concerns over whether it correctly mirrors the law with respect to councillors acting in a private capacity.
- 2.4 Durham County Council has been working on an update of its own Members' Code of Conduct since 2019, taking into account the LGA Model Code and the best practice recommendations of the CSPL Report on Local Government Ethical Standards.
- 2.5 County Durham Association of Local Councils (CDALC) has been involved in the work to create the new DCC Members' Code of Conduct and to represent the views of the town and parish council sector in County Durham, through its representation on the DCC Standards Committee.

3.0 New Durham County Council Members' Code of Conduct

- 3.1 Durham County Council Standards Committee noted that the current Code of Conduct already largely reflected the provisions in the LGA Model Code of Conduct and took the view that its own Members' Code of Conduct should be even more robust than the LGA Model.
- 3.2 The Committee agreed to make some amendments to the Code to include an express provision for Members not to bring the authority into disrepute and also to include examples of what amounts to treating others with respect and how to deal with disrespectful behaviour from others, whilst the requirements around the disclosure of pecuniary and non-pecuniary interests were also updated and made more robust.

- 3.3 The CDALC Executive Officer has now forwarded the new version of the County Council Members' Code of Conduct and has recommended that all Parish and Town Council's in County Durham adopt the new Code.
- 3.4 This recommendation is made due to the LGA model being intended to be applicable to all levels of local government and it also making good sense for DCC's Monitoring Officer, who has to deal with complaints about councillors, to work with a consistent Code of Conduct for both tiers of local government.
- 3.5 The adoption of the Code of Conduct by all Parish and Town Councils will standardise the procedures across County Durham and ensure consistency.
- 3.6 A copy of the new Durham County Council Members' Code of Conduct is attached at Appendix 1.

4.0 Review of the Town Council Member's Code of Conduct

- 4.1 A copy of the Town Council's current Member's Code of Conduct, as adopted in November 2017 is attached at Appendix 2, allowing Members to make comparison with the new Durham County Council Code.
- 4.2 Members need to consider whether the Council should now consider adopting the new Durham County Council Members' Code of Conduct as recommended by CDALC.
- 4.3 It is the view of the Town Clerk that in an ideal world there should be a consistent Code of Conduct in place for both principal councils and town and parish councils in County Durham, particularly bearing in mind that the Monitoring Officer at DCC deals with all complaints, and also that the Code should be as robust as it can be in line with the recommendations of the Committee on Standards in Public Life (CSPL) report on Local Government Ethical Standards.
- 4.4 However, it is also advised that the Council would need to be careful to retain any elements of its current Code of Conduct that are specifically relevant to this council moving forward.
- 4.5 The new DCC Members' Code of Conduct differs from the Town Council's Code of Conduct in a number of ways:-
- It defines and includes the Nolan Principles.
 - It has a wider and more robust set of member obligations.
 - There is no specific requirement to disclose interests already recorded in the Register of Interests at Council Meetings – please note that this is something that is clearly referenced in the Town Council's current Code of Conduct and which it is recommended is retained in any future code, and as a standard agenda item for all Council, Committee and Sub-Committee Meetings.
 - It does not permit members to speak or remain in the room on non-pecuniary interests – this is something that the Town Council's Code of Conduct currently allows in certain circumstances.
 - There is no reference to member dispensations.
 - It includes requirements around gifts and hospitality.
 - It does not include an Appendix of Disclosable Pecuniary Interests and Other Relevant Interests.

4.6 There would appear to be three options available to the Council in relation to this issue:-

1. Adopt the DCC Code of Conduct.
2. Adopt the DCC Code of Conduct with relevant elements of the Town Council's current Code retained
3. Retain the current GATC Code of Conduct.

4.7 Officers would recommend that the Council adopts the DCC Code of Conduct subject to the requirements around declaration of all interests at meetings, member dispensations, and permitting members to speak on non-pecuniary interests in certain circumstances, being retained.

4.8 An indicative version of the Council's Member's Code of Conduct as updated on the above basis is attached at Appendix 3 for Members' consideration. Any additions to the Town Council Code added in from the DCC Code or otherwise amended, are highlighted in yellow whilst any deleted items shown with a line through.

4.9 Members are requested to advise officers of the preferred option in relation to the Member's Code of Conduct.

4.10 If it is agreed to adopt the new DCC Code of Conduct with relevant elements of the Town Council's current Code retained, Members may wish to consider the update attached at Appendix 3, and advise officers of any required changes to this, ahead of a further report being brought forward to the Council in September, with any further suggested amendments appropriately highlighted.

5.0 Policy Implications

5.1 Consideration and adoption of the recommended Code of Conduct conforms to Aim No. 1 of the Council's Aims and Targets:-

"To provide good quality governance and management of the Council".

6.0 Staffing Implications

6.1 None.

7.0 Financial Implications

7.1 None.

8.0 Crime and Disorder Implications

8.1 The basis of the Members' Code of Conduct is the Localism Act 2011. The Act introduced new arrangements to regulate the conduct of members of local authorities including parish councils, the registration and disclosure of certain interests and how complaints are handled. The Act also created new criminal offences in respect of a members' failure to register and disclose certain interests and his/her participation in discussions and voting at meetings on matters where he/she holds such interests. These arrangements came into force on the 12th July 2012. The suggested amendments to the Council's Code of Conduct have no impact on the Council's compliance with these requirements.

9.0 Equal Opportunities Implications

9.1 The Code applies to all Council Members and any “co-opted” members of a committee or sub-committee.

10.0 Environment and Climate Change Implications

10.1 None.

11.0 Risk Assessment

11.1 The Members’ Code of Conduct is already adopted by the Council.

11.2 The suggested amendments to the Code implement a wider and more robust set of member obligations, as well as incorporating the requirements around gifts and hospitality. It is therefore considered that the adoption of the amended Code of Conduct does not pose a risk to health and safety of staff, or to the financial or public standing of the Council to a degree that a risk assessment should be appended to this report.

12.0 Recommendation

12.1 It is recommended that:-

- (i) Members receive the report.
- (ii) Consider the three options available to the Council in relation to its Members’ Code of Conduct:-
 1. Adopt the DCC Code of Conduct
 2. Adopt the DCC Code of Conduct with relevant elements of the Town Council’s current Code retained
 3. Retain the current GATC Code of Conduct.
- (iii) If Option 2 is agreed Members may wish to consider the updated Members’ Code of Conduct attached at Appendix 3, and advise officers of any required changes to this, ahead of a further report being brought forward to the Council in September.