

LGA consultation on draft member code of conduct – June 2020

Code of Conduct

The LGA is running a consultation on the draft member code of conduct for 10 weeks from Monday 8 June until Monday 17 August.

Comparison of the draft Model Code of Conduct and the current NED Councillor Code of Conduct.

| <b><u>MODEL CODE OF CONDUCT</u></b>  | <b><u>NED CODE OF CONDUCT</u></b>  | <b><u>NOTES/DIFFERENCES</u></b>   |
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| <p><u>Purpose</u><br/>Short introductory paragraph explaining that the code sets out the conduct expected of all members and a minimum set of obligations relating to conduct.</p>   | <p><u>Introduction</u><br/>Short introduction that states that members have a statutory responsibility to have regard to the following principles – sets out the seven principles of public life.</p>                                    |   |
| <p><u>Application of the Code</u><br/>Sets out when the code applies.</p> <p>Model conduct and expectations is for guidance only, whereas the specific obligations set out (below) instances where action will be taken.</p>   | <p>Sets out that in accordance with the Localism Act, when acting or appearing to act in capacity as a councillor, a member should be committed to behaving in a manner that is consistent with the seven principles of public life.</p> |   |
| <p><u>The seven principles of public life</u><br/>The model code has been developed in line with these seven principles of public life, which are set out in an appendix to the Code.<br/>Everyone in public office should uphold the seven principles of public life.</p> | <p>The code is based upon the Nolan Principles – the seven principles of public life</p>   | <p>Both set out the seven principles</p>  |
| <p><u>Model member conduct</u><br/>Sets out the following:</p>   |  | <p>No individual section on this in the NED code but generally covered in next section (below).</p> |

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| <p>In accordance with the public trust placed in me, on all occasions I will:</p> <ul style="list-style-type: none"> <li>• Act with integrity and honesty</li> <li>• Act lawfully</li> <li>• Treat all persons with civility; and</li> <li>• Lead of example and act in a way that secure public confidence in the office of councillor</li> </ul> <p>In undertaking my role, I will:</p> <ul style="list-style-type: none"> <li>• Impartially exercise my responsibilities in the interests of the local community</li> <li>• Not improperly seek to confer an advantage, or disadvantage, on any person</li> <li>• Avoid conflicts of interest</li> <li>• Exercise reasonable care and diligence; and</li> <li>• Ensure that public resources are used prudently and in the public interest</li> </ul> |                            |                          |

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| <p><u>Specific obligations of general conduct</u></p> <p>This section sets out the minimum requirements of member conduct.</p> <p>These obligations must be observed in all situations where you act [or claim or give the impression that you are acting] as a councillor [or in public], including representing your council on official business and when using social media.</p> <p><b>As a councillor I commit to:</b></p> <p><b><u>Civility</u></b></p> <ol style="list-style-type: none"> <li>1. Treating other councillors and members of the public with civility.</li> <li>2. Treating council employees and representatives of partner organisations and those volunteering for the councils with civility and respecting the role that they play.</li> </ol> <p><b><u>Bullying and harassment</u></b></p> <ol style="list-style-type: none"> <li>3. Not bullying or harassing any person</li> </ol> <p><b><u>Impartiality of officers of the council</u></b></p> <ol style="list-style-type: none"> <li>4. Not compromising, or attempting to compromise, the impartiality of anyone who works for, or on behalf of, the council.</li> </ol> <p><b><u>Confidentiality and access to information</u></b></p> | <p><u>General Conduct</u></p> <p>As a Member of North East Derbyshire District Council, I will ensure my conduct is in accordance with the statutory principles of this Code of Conduct by:</p> <ol style="list-style-type: none"> <li>a. Dealing with people, representations or enquires from residents, members of our communities and visitors fairly, appropriately and impartially. (similar to 1 – model code)</li> <li>b. Behaving in accordance with the Council's legal obligations, alongside any requirements contained within North East Derbyshire District Council's policies, protocols and procedures, including on the use of the Authority's resources. (similar to 9 – model code)</li> <li>c. Acting in accordance with the Council's ICT policies, ensuring that ICT resources are not used improperly and having regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986. (similar to 9 – model code)</li> <li>d. Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of</li> </ol> | <p>Note regarding model code – items in square brackets [x] refer to recommendations made by the Committee on Standards in Public Life (CSPL) and may be part of a future Government consultation. This includes possible future sanctions and appeals processes.</p> <p>NED code doesn't set out general conduct as the minimum requirement of member conduct as the Model code does.</p> <p>NED code doesn't set out when these obligations must be observed as the Model code does.</p> <p>NED code doesn't include - not bullying or harassing any person (although does cover treating people with respect) (model code 3)</p> <p>NED code doesn't include - not compromising the impartiality of anyone who works for the council (model code 4)</p> <p>NED code doesn't have specific line on not bring council into disrepute (model code 7)</p> |
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| <p>5. Not disclosing information given to me in confidence or disclosing information required 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.</p> <p>6. Not preventing anyone getting information that they are entitled to by law</p> <p><b><u>Disrepute</u></b></p> <p>7. Not bringing my role or council into disrepute</p> <p><b><u>Your position</u></b></p> <p>8. Not using, or attempting to use, my position improperly to the advantage or disadvantage of myself or anyone else</p> <p><b><u>Use of council resources and facilities</u></b></p> <p>9. Not misusing council resources</p> <p><b><u>Interests</u></b></p> <p>10. Registering and declaring my interests</p> <p>[Appendix B to the code sets out more information on registering and declaring interests in line with Table 1 (Disclosable Pecuniary Interests) and Table 2 (Other Registerable Interests).</p> <p><b><u>Gifts and hospitality</u></b></p> <p>11. Not accepting significant gifts or hospitality from persons seeking to acquire, develop or do business with the</p> | <p>North East Derbyshire District or the good governance of the Authority in a proper manner. (similar to 7 – model code)</p> <p>e. Complying with the requirements of the Council's Protocol on Gifts and Hospitality by registering with the Monitoring Officer any item of hospitality that I receive of the value of £25 or more. (similar to 12 – model code)</p> <p>f. Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member or co-opted member of my Authority. (similar to 8 – model code)</p> <p>g. Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.</p> <p>h. Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.</p> <p>i. Contributing to making the Council's decision-making processes as open and</p> | <p>NED code covers the following, which are not in the model code:</p> <ul style="list-style-type: none"> <li>• Acting in accordance with Cllrs Guidance on Social Media</li> <li>• Not giving the impression you are acting in an official capacity when you are acting in a personal capacity</li> <li>• Reporting a safeguarding issue</li> </ul> |
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| <p>council or from persons who may apply to the council for any permission, licence or other significant advantage</p> <p>12. Registering with the monitoring officer any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt</p> <p>(see model code for further information on each of the 12 sections not included here)</p> | <p>transparent as possible. I will do this by allowing residents to access information they are entitled to by law, helping them to understand the reasoning behind the decisions taken and enabling them to be informed when holding me and other members to account. (similar to 6 – model code)</p> <p>j. Restricting access to information when the wider public interest or the law requires it. (similar to 5 – model code)</p> <p>k. Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government. (similar to 2 – model code)</p> <p>l. Always treating people with respect, including the organisations and public I engage with and those I work alongside. (similar to 1 – model code)</p> <p>m. Providing leadership through behaving in accordance with these principles when championing the interests of the community, with other organisations, as well as within this Authority.</p> |  |
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|  | <p>n. Promoting equality by not discriminating against any person and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation of disability (similar to 1 – model code)</p> <p>o. Promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirement, by leadership and example.</p> <p>p. Acting in accordance with the requirements set out in the Social Media Guidance for Councillors.</p> <p>q. Must be clear when communicating with the media or speaking in public that you do not give the impression you are acting in an official capacity when you are acting in a personal capacity.</p> <p>r. Report a safeguarding issue to the appropriate authority</p> |  |
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| <p><u>Breaches of the Code of Conduct</u></p> <p>States what requirements there are for relevant authorities under the Localism Act 2011 to publish a code of conduct, that must cover the registration of pecuniary interests, the role of an independent person and what sanctions will be imposed for any breach of the code.</p> <p>There is an example internal resolution procedure</p> | <p>NED Councillor Complaints Procedure sets out the possible sanctions that may be imposed for a breach.</p>  |                                 |
| <p><u>Appendix A</u></p> <p>Sets out the principles</p>   | <p>Principles covered at start of code</p>  |                                 |
| <p><u>Appendix B</u></p> <p>Information on registering and declaring interests</p>  | <p>Covered within main section of code</p> <p><u>Members Interests</u><br/>Information on notification of disclosable pecuniary interests – details of regulations set out in Appendix B – and register of interests, sensitive interests, non-participation in cases, dispensations, criminal offences, other interests, licences, and interests arising in relation to scrutiny committees.</p> <p><u>Pre determination or bias</u><br/>Short paragraph on participating in a decision if involved in campaigning in a political role</p> |                                 |

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|                              | <u>Training</u><br>Sets out what essential training Cllrs must attend – details set out in Appendix A | Model code doesn't cover training |

Other things to note

1. CSPL recommends that “Section 27(2) of the Localism Act 2011 should be amended to state that a local authority’s code of conduct applies to a member when they claim to act, or give the impression they are acting, in their capacity as a member or as a representative of the local authority”.
2. CSPL recommend that “councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly accessible social media. Section 27(2) of the Localism Act 2011 should be amended to permit local authorities to presume so when deciding upon code of conduct breaches.”