

# **BIRMINGHAM CITY COUNCIL**

## **STANDARDS COMMITTEE**

**MONDAY, 19 APRIL 2021 AT 14:00 HOURS**  
**IN ON-LINE MEETING, MICROSOFT TEAMS**

### **A G E N D A**

**1     NOTICE OF RECORDING/WEBCAST**

The Chair to advise/meeting to note that this meeting will be webcast for live or subsequent broadcast via the Council's Internet site ([www.civico.net/birmingham](http://www.civico.net/birmingham)) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

**2     DECLARATIONS OF INTERESTS**

Members are reminded that they must declare all relevant pecuniary and non pecuniary interests arising from any business to be discussed at this meeting. If a disclosable pecuniary interest is declared a Member must not speak or take part in that agenda item. Any declarations will be recorded in the minutes of the meeting.

**3     APOLOGIES**

To receive any apologies.

**4     MINUTES**

To confirm and sign the minutes of the meeting held on 5 November 2020.

To follow.

**5     AMENDMENT TO THE CODE OF CONDUCT FOR MEMBERS**

Report of the City Solicitor.

**6     OTHER URGENT BUSINESS**

**1 - 12**

To consider any items of business by reason of special circumstances (to be specified) that in the opinion of the Chair are matters of urgency.

## **7 AUTHORITY TO CHAIR AND OFFICERS**

Chair to move:-

'In an urgent situation between meetings, the Chair jointly with the relevant Chief Officer has authority to act on behalf of the Committee'.

# REPORT ON THE REVISED CODE OF CONDUCT FOR ELECTED AND CO-OPTED MEMBERS

**REPORT OF:** CITY SOLICITOR  
**DATE:** 9<sup>TH</sup> APRIL 2021  
**SUBJECT:** AMENDMENT TO THE CODE OF CONDUCT FOR MEMBERS

## 1. PURPOSE OF REPORT

This report aims to consider amendments to the Code of Conduct based entirely or in part on the the Local Government Association's Model Councillor Code of Conduct.

## 2. BACKGROUND TO THE LGA MODEL CODE OF CONDUCT

In January 2019, the Committee on Standards in Public Life (CoSPL) published a report which recommended creating an updated model code of conduct, by the Local Government Association (LGA) in consultation with representative bodies of councillors and officers of all tiers of local government.

In June 2020 the Local Government Association (LGA) conducted a consultation to gather views on its draft Model Member Code of Conduct. Responses to the consultations were gathered by the LGA Research and Information team via an online questionnaire and by email. Over 1600 written responses to the consultation were received by the LGA. In addition, workshops of members and Monitoring Officers took place to discuss the approach and content of the revised Code.

The final Model Code of Conduct for Councillors was approved by the LGA on 3 December 2020 and made available to all Local Authorities shortly thereafter. This Model Code is not mandatory and is able to be adapted by Local Authorities.

## 3. SUMMARY OF MODEL CODE OF CONDUCT

The purpose of the Model Code of Conduct is to assist Councillors in modelling the behaviour that is expected of them, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against them.

It also aims to protect the public, Councillors, Local Authority officers and the reputation of Local Government. It sets out general principles of conduct expected of all Councillors and the specific obligations in relation to standards of conduct. The fundamental aim of the Code is to create and maintain public confidence in the role of Councillor and Local Government.

The Model Code of Conduct covers the following areas:

- Respect
- Bullying, harassment and discrimination
- Impartiality of officers of the Council
- Confidentiality and access to information
- Disrepute
- Use of position
- Use of Local Authority resources and facilities
- Complying with the Code of Conduct
- Protecting your reputation and the reputation of the Local Authority

# REPORT ON THE REVISED CODE OF CONDUCT FOR ELECTED AND CO-OPTED MEMBERS

- Interests
- Gifts and hospitality

The consultation exercise also highlighted several areas that participants wanted included within the Model Code of Conduct and accordingly, the following were encompassed:

- The Code has been written in the first person, to make it more personal to individual Councillors.
- There are provisions within the Code on the use of social media, including confidentiality.
- The declaration of gifts has risen from gifts of a value of £25.00 to £50.00.
- Accompanying guidance with examples has been produced.
- There are references within the Code to the Equality Act and the obligation on Local Authorities and Councillors to comply with that Act.
- There are more details on conduct investigations and Councillor's obligations to cooperate with those investigations.

The LGA plan to undertake an annual review of this Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation.

## 4. ADOPTING THE MODEL CODE OF CONDUCT

The City Council is due to review its current Code of Conduct for Members (currently contained within Part C of the Constitution) as part of the Annual General Meeting to be held on 25<sup>th</sup> May 2021.

As part of this review, it is proposed that the City Council look to adopt the Model Code of Conduct in one of the following ways:

### ***Option 1: Adopt the Model Code of Conduct in full***

The first option is for the City Council to adopt the Model Code of Conduct in full (but subject to any recommendations by the Committee), replacing the existing Code within the Constitution. This option has been exercised by many local authorities across the country include neighbouring authorities.

Whilst the principle of localism facilitates greater local determination on practices best suited to each authority, this can result in inconsistencies of rigour in application of cases from one authority to another. Adopting the Model Code of Conduct creates nationwide consistency to reflect the common expectations of the public, regardless of geography or tier. Many codes of conduct fail to address adequately important areas of behaviour such as social media use and bullying and harassment.

Adopting the Model Code of Conduct would:

- Assist public awareness and access to one set of expectations for all Councillors.
- Articulate what are nationally believed to be good standards for all in public office.
- Encompass a wide range of views, knowledge and resources as part of a robust Code of Conduct.
- Reduce the potential for confusion between differing authorities' Codes of Conduct.
- Ensure a consistent approach, especially in relation to areas such as gifts and hospitality, social media use, and bullying and harassment.

## **REPORT ON THE REVISED CODE OF CONDUCT FOR ELECTED AND CO-OPTED MEMBERS**

- Provide greater levels of support from the LGA to its member councils and partners in achieving good standards of conduct.
- Allow for more specific guidance from the LGA.
- Build on the good practice that already exists within member councils.
- Seek to enhance the reputation of Local Government and local politicians.
- Ensure the Code continues to be fit- for-purpose by regular reviews from the LGA.

### ***Option 2: Adapt the existing Code of Conduct***

Alternatively, the City Council could amend and adapt the existing Code of Conduct in line with the LGA's Model Code.

Please see attached for a marked – up version of the current code of conduct.

### **Option 3 : Do nothing and consider at a later date**

## **5. RECOMMENDED OPTION**

The Committee is requested to consider the new Model Code of Conduct (option 1) and to consider any further recommendations it may wish to make.



## C4. CODE OF CONDUCT FOR MEMBERS

### 4.1 Introduction and Interpretation

- i. This Code applies to Councillors of Birmingham City Council, and also to co-opted committee members.
- ii. It is the responsibility of Councillors and co-opted Members to comply with the provisions of this Code.
- iii. 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”.

### 4.2 Scope

- i. The purpose of the Code 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, officers and the reputation of the council. You must comply with this Code whenever you:
  - conduct the business of Birmingham City Council; or
  - act, claim to act or give the impression you are acting as a representative of Birmingham City Council; or
  - act as a representative of Birmingham City Council
 and references to your official capacity are construed accordingly.
- ii. In addition to having effect in relation to conduct in your official capacity, this Code has effect, at any other time, where conduct constitutes a criminal offence for which you have been convicted or received a Police Caution.
- iii. 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 or co-opted member.

iv. This 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; and
- in electronic and social media communication, posts, statements and comments.

### 4.3 General obligations

i. Councillors and Co-optees are committed to behaving in a manner that is consistent with the following principles of Public Life:

- **Selflessness** — you should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.
- **Honesty and integrity** — you should not place yourself in situations where your honesty and integrity may be questioned, you should not behave improperly and should on all occasions avoid the appearance of such behaviour.
- **Objectivity** — you should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.
- **Accountability** — you should be accountable to the public for your actions and the manner in which you carry out your responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to your particular office.
- **Openness** — you should be as open as possible about your actions and those of your authority, and should be prepared to give reasons for those actions.
- **Personal judgement** — you may take account of the views of others, including your political group, but you should reach your own conclusions on the issues before you and act in accordance with those conclusions.
- **Respect for others** — you should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. You should respect the impartiality and integrity of the authority's statutory officers and its other employees. Respect also 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.

- **Duty to uphold the law** — you should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in you.
- **Stewardship** — you should do whatever you are able to do to ensure that your authority uses their resources prudently and in accordance with the law.
- **Leadership** — you should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

### **Dos and Don'ts for Members**

#### ii. Do:

- Follow the Code of Conduct when you are representing your authority.
- Be aware of what pecuniary and non-pecuniary interests are – refer to the Monitoring Officer if you are unsure.
- Keep your [Register of Interests](#) up-to-date.
- Treat others with respect.
- Register Gifts and Hospitality, received in your role as a Member, **with an estimated value of at least £50 (see below)**~~worth more than £25.~~

#### iii. Don't:

- Bring your authority or office into disrepute.
- Use the authority's resources which includes the Council's address and email address for any personal, party political or non-Council purposes.
- Compromise the impartiality of people who work for your authority.
- Discriminate against people on the grounds of race, gender, disability, religion or belief, sexual orientation and age.
- Bully, intimidate or attempt to intimidate others.
- Use your position improperly for personal gain or to advantage your friends or close associates.
- Participate in meetings or be involved in decision-making where you have a pecuniary interest – except when speaking when the general public are also allowed to do so.

~~4.4 — Disclose confidential information, other than in exceptional circumstances — refer to the Monitoring Officer if you are unsure.~~

**4.4 Impartiality of Officers of the Council**

- i. As a Councillor you must not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.
- ii. Officers work for the Council 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.

**4.5 Confidentiality and access to information.**

- i. As a Councillor:
  - i. you must not disclose information:
    - given to you in confidence by anyone
    - acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, unless -
      - You have received the consent of a person authorised to give it;
      - You are required by law to do so;
      - 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
      - The disclosure is:
        - reasonable and in the public interest; and
        - made in good faith and in compliance with the reasonable requirements of the local authority; and
        - You have consulted the Monitoring Officer prior to its release.
  - ii. You must not improperly use knowledge gained solely as a result of your role as a councillor for the advancement of yourself, your friends, your family members, your employer or your business interests.
  - iii. You must not prevent anyone from getting information that they are entitled to by law. The Council must work openly and transparently, and its 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 well

held by the council must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

~~4.5 — Prevent anyone getting information they are entitled to.~~

**4.6 Disclosure of Pecuniary and Non-Pecuniary Interests**

- i. Subject to paragraph vii below (Sensitive Interests), you must within 28 days of this Code being adopted, or of later election or appointment to office, and within 28 days of becoming aware of any new pecuniary or non-pecuniary interest or of any change to your registered interests, notify the Monitoring Officer on the form provided – or if only a ‘change’ in your interests then notification by email will suffice.
- ii. If a pecuniary or non-pecuniary interest arises from any business to be discussed at any committee or joint committee meeting of the Council then you must declare this interest either at the start of the meeting or immediately before the item is discussed.
- iii. If a non-pecuniary interest arises from any report to be determined by a Chief Officer in consultation with a Cabinet Member then the nature of that interest of the Cabinet Member (or the Chief Officer) must be written in the decision record. If a pecuniary interest arises then the Monitoring Officer must be notified and no further steps should be taken in the matter.
- iv. An interest to be disclosed at a meeting is either your interest or that of your husband, wife or civil partner or that of a person with whom you are living as husband or wife or as civil partners.
- v. If you declare a disclosable pecuniary interest then you must not take part in any discussion of the matter at the meeting, and you must not vote on the matter.<sup>1</sup> You ~~need not~~must withdraw from the meeting ~~but as~~ any participation by yourself at the meeting in respect of the matter in which you have a pecuniary interest is a criminal offence for which you may be prosecuted as well as referred to the Standards Committee.
- vi. If you declare a non-pecuniary interest then you may remain in the meeting, you may take part in the discussion and you may vote on the matter.

**Sensitive Interests**

- vii. Where you consider that disclosure of the details of an interest could lead to you or a person connected to you being subject to violence, discrimination or intimidation, and the Monitoring Officer agrees, then the Register of Interest will disclose the interest but not the details which may accordingly be withheld from publication.

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<sup>1</sup> Unless you have received a dispensation – see ix below

## Exemptions

- viii. Where you have a pecuniary interest in any business of the City Council you must declare that interest but you may speak at that meeting for the purpose of making representations, answering questions, or giving evidence relating to the business *providing* that the public are also allowed to attend the meeting for the same purpose.
- ix. Dispensations are available by application to the Chair of the Standards Committee in consultation with the Monitoring Office, in the limited circumstances that apply by law. If required please write to the Monitoring Officer with reasons for the application.

### 4.7 Gifts and Hospitality

#### i. As a Councillor:

~~• You must:~~

- ~~-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 your part to show favour 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 (financial or otherwise).~~
- ~~You must register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt~~
- ~~You must register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.~~

- ii. ~~In order to protect your position and the reputation of the Council, 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 or religious holiday 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, please contact the Council's Monitoring Officer for guidance.~~

### 4.7.4.8 Overview & Scrutiny Committees

- i. Where you have participated in the executive decision of any committee and that decision is subject to scrutiny, you may not attend the meeting(s) of the Overview &

Scrutiny Committee except for the purpose of making representations, answering questions or giving evidence.

#### **4.84.9 Recording of Council Meetings**

- i. Where a meeting is to be streamed live on the internet, this should be announced by the Chair at the start of the meeting.
- ii. Recording or use of social media is not permitted during or concerning the private part of any council meeting. The full Recording Protocol can be found [here](#).

#### **4.94.10 Additional voluntary provisions**

- i. No Councillor shall provide or offer to provide a formal reference for any candidate for employment or promotion with Birmingham City Council as to do so may be perceived as bringing an unacceptable pressure to bear on the appointing officer and any officer appointed as a result of such reference.
- ii. No Councillor shall provide or offer to provide a formal reference for any candidate for or holder of a Hackney Carriage or Private Hire Licence of any kind with Birmingham City Council as to do so may be perceived as bringing an unacceptable pressure to bear on the decision maker(s).
- iii. No Councillor shall seek to influence or overturn any decision of the Licensing Authority in relation to a Hackney Carriage or Private Hire Licence of any kind.

#### **4.11 Complying with the Code of Conduct**

- i. As a Councillor:
  - You must undertake code of conduct training provided by the council;
  - You must cooperate with any code of conduct investigation and and/or determination;
  - You must not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings
  - You must comply with any sanction imposed following a finding that you have breached the code of conduct.
- ii. 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 council or its governance. If you do not understand or are concerned about the Council's processes in handling a complaint, you should raise this with the Council's Monitoring Officer.

#### **4.104.12 Making a Complaint**

~~ii.~~iii. The procedure for making a complaint against a councillor can be found at:

[https://www.birmingham.gov.uk/info/50069/councillors/284/complain\\_about\\_a\\_councillor](https://www.birmingham.gov.uk/info/50069/councillors/284/complain_about_a_councillor)