

Cherwell District Council

Council

18 May 2022

Adoption of Revised Members' Code of Conduct

Report of Interim Monitoring Officer

This report is public

Purpose of report

To adopt a revised Members' Code of Conduct as unanimously recommended by the Standards Committee.

1.0 Recommendations

The meeting is recommended:

- 1.1 To adopt the revised Members' Code of Conduct.
- 1.2 To agree that:
 - it be mandatory for all Councillors to complete Code of Conduct training within 6 months of the adoption of the revised code (i.e. by mid-November).
 - It be mandatory for all Councillors to undertake Code of Conduct training within 6 months of their election (newly or re-elected) and attend a refresher at least once during their term of office.
- 1.3 To endorse the revised Members' Code of Conduct for adoption by the Town and Parish Councils in the Cherwell District.

2.0 Introduction

- 2.1 Section 27(2) of the Localism Act 2011 sets out that a local authority must adopt "a code dealing with the conduct that is expected of Members and co-opted Members of the authority when they are acting in that capacity."
- 2.2 Cherwell District Council adopted the current Members' Code of Conduct in July 2012. It is Part 13 of the Constitution.
- 2.3 All Oxfordshire local authorities are covered by a single, jointly-agreed Code of Conduct which ensures that councillors who are members of multiple authorities within the area are covered by a single code, providing clarity and consistency. The

same Members' Code of Conduct has been adopted by the majority of parish councils in the Cherwell district.

- 2.4 Following a review and consultation exercise, the Local Government Association (LGA) published a Model Member Code of Conduct in December 2020 which was updated in January and May 2021. The LGA issued accompanying guidance in July 2021.
- 2.5 The Oxfordshire principal authorities have worked collaboratively to consider whether to adopt the model code from the LGA, to keep the current Members' Code of Conduct or to adopt an amended Members' Code of Conduct. An amended Members' Code of Conduct is attached at Appendix 1 which will be considered by each of the Oxfordshire principal authorities for approval.
- 2.6 At Cherwell District Council, Council is "Responsible for adopting and changing the Constitution, the Council's Code of Conduct and Members' Allowance Scheme".
- 2.7 The Standards Committee has responsibility for "The making of recommendations to Council on the adoption, revision or replacement of a code of conduct for members and co-opted members". The Committee considered the proposed revised code at its 17 March 2022 meeting and unanimously agreed to recommend it to Council for adoption.

3.0 Report Details

- 3.1 As set out in the introduction, Cherwell District Council adopted its current Members' Code of Conduct in July 2012. This Code is consistent across the Oxfordshire district councils, Oxford City Council and Oxfordshire County Council. It has also been adopted by the majority of parish councils in the Cherwell district.
- 3.2 In 2018 the Committee on Standards in Public Life undertook a review of local government ethical standards. The Committee on Standards in Public Life considered that robust standards arrangements are needed to safeguard local democracy, maintain high standards of conduct, and to protect ethical practice in local government. A consultation period ran from 29 January to 18 May 2018.
- 3.3 The terms of reference for the review were to:
 - i. examine the structures, processes and practices in local government in England for:
 - maintaining codes of conduct for local councillors
 - investigating alleged breaches fairly and with due process
 - enforcing codes and imposing sanctions for misconduct
 - declaring interests and managing conflicts of interest
 - whistleblowing
 - ii. assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government
 - iii. make any recommendations for how they can be improved
 - iv. note any evidence of intimidation of councillors, and make recommendations for any measures that could be put in place to prevent and address such intimidation

- 3.4 The Committee on Standards in Public Life (CSPL) published the [Local Government Ethical Standards report](#) on 30 January 2019. The Local Government Association (LGA) then released a draft Model Member Code of Conduct on 8 June 2020 and sought views on it.
- 3.5 The LGA published a [Model Member Code of Conduct](#) in December 2020 which was updated in January and May 2021. The LGA issued some accompanying [guidance](#) in July 2021.

LGA Model Code of Conduct

- 3.6. The LGA Model Code is said to:
- “have been designed to protect our democratic role, encourage good conduct, and safeguard the public’s trust and confidence in the role of councillor in local government. While it sets out the minimum standards of behaviour expected, together with the guidance, it is designed to encourage councillors to model the high standards expected of councillors, to be mutually respectful even if they have personal or political differences, to provide a personal check and balance, and to set out the type of conduct that could lead to complaints being made of behaviour falling below the standards expected of councillors and in breach of the code. It is also to protect councillors, the public, local authority officers and the reputation of local government.”
- 3.7 The LGA Model Code does not differ significantly in content from the local code already in operation in Oxfordshire, although some of the language used is different. The Oxfordshire Monitoring Officers have worked collaboratively to consider whether to adopt the model code from the LGA, to keep the current Members' Code of Conduct or to adopt an amended Members' Code of Conduct.
- 3.8 On behalf of the Districts City and County Councils, the Oxford City Head of Law & Governance drafted an amended Members' Code of Conduct which was reviewed and endorsed by all Oxfordshire Monitoring Officers to be considered by each Authority for approval.
- 3.9 The proposed draft is attached at Appendix 1. It is intended that all of the Oxfordshire Authorities adopt the Code for implementation from May 2022.

Revised Members' Code of Conduct

- 3.10 The revised Code sets out general principles of conduct expected of all Councillors as well as specific obligations in relation to standards of conduct. The fundamental aim of the revised Code is to create and maintain public confidence in the role of the Councillor and in Local Government.
- 3.11 The Code of Conduct will apply to each Councillor as soon as they sign the declaration of acceptance of the office of Councillor or attend their first meeting as a co-opted member and continues to apply until the role as a Councillor ceases.
- 3.12 The Code:
- a) Applies to members acting in their capacity as a Councillor which may include when:

- the position as a Councillor is misused; or when
- the impression is given to a reasonable member of the public with knowledge of all the facts that an individual is acting as a Councillor.

Members are expected to uphold high standards of conduct and show leadership at all times.

- b) 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;
- c) Includes the following standards/obligations, with guidance given for each obligation to help explain the reasons for the obligations and how they should be followed:
- i. Respect - A Councillor:
 - Shall treat everyone, including other Councillors and members of the public with respect and shall treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.
 - Respect means politeness and courtesy in behaviour, speech, and in the written word.
 - ii. Bullying, Harassment and Discrimination – A Councillor:
 - Shall not bully or harass any person and shall promote equalities and not discriminate against any person.
 - Bullying is described as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.
 - The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.
 - Discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

- iii. Impartiality of Officers of the Council – A Councillor:
 - Shall not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

- iv. Confidentiality and access to information – A Councillor:
 - Shall not disclose information either given to them in confidence by anyone or acquired by them which they believe, or ought reasonably to be aware, is of a confidential nature, unless:
 - they have received the consent of a person authorised to give it; or
 - they are required by law to do so; or
 - 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 also made in good faith and in compliance with the reasonable requirements of the local authority and consultation with the Monitoring Officer has taken place prior to its release.

 - Shall not improperly use knowledge gained solely as a result of their role as a Councillor for the advancement of themselves, their friends, family members, employer or business interests.

 - Shall not prevent anyone from getting information that they are entitled to by law.

 - When making decisions on behalf of, or as part of, the Council shall have due regard to any professional advice provided by the Council's Officers.

- v. Disrepute – A Councillor:
 - Shall not bring their role or local authority into disrepute.

- vi. Use of position – A Councillor:
 - Shall not use, or attempt to use, their position improperly to the advantage or disadvantage of anyone.

- vii. Local Authority Resources and Facilities – A Councillor:
 - Shall not misuse council resources.

 - Shall, when using the resources of the local authority or authorising their use by others, act in accordance with the local authority's requirements; and ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which they have been elected or appointed.

- viii. Compliance with the Code of Conduct – A Councillor:
 - Shall undertake Code of Conduct training as required by the local authority.

- Shall cooperate with any Code of Conduct assessment, investigation, hearing and/or determination.
 - Shall not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.
 - Shall comply with any sanction imposed on them following a finding that they have breached the Code of Conduct.
- ix. Gifts and Hospitality – A Councillor:
- Shall 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 to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.
 - Shall register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.
 - Shall register with the Monitoring Officer any significant gift or hospitality that they have been offered but have refused to accept.
- d) Sets out the obligations for councillors in relation to the registration / declaration of interests including Disclosable Pecuniary Interests (DPI) and other registrable interests.

It also contains guidance on the steps that must be taken if a councillor has an interest in a matter that is under consideration by the Council, including when it relates to a non-registrable interest.

Where a matter arises at a meeting which directly relates to a Councillor's financial interest or wellbeing (and does not fall within the definition of disclosable pecuniary interests), or the financial interest or wellbeing of a relative or close associate, it is a non-registrable interest

Code of Conduct Training

- 3.13 As set out at “viii” above, Councillors should undertake Code of Conduct training as required by their authority.
- 3.14 At CDC, Code of Conduct training forms part of the Member Induction programme each year, however, there has been no requirement for Members to attend Code of Conduct training.
- 3.15 Having regard to the importance of the Code, the Standards Committee unanimously resolved to recommend Council agree to make Code of Conduct training mandatory for all Councillors:
- All Councillors to undertake training within 6 months of the adoption of the revised Code of Conduct, i.e. by 18 November 2022

- All Councillors (newly or re-elected) to undertake Code of Conduct training within 6 months of their election and to undertake a refresher at least once during their term of office

3.16 To ensure that Code of Conduct training is as accessible as possible to fulfil the proposed mandatory requirement, multiple sessions will be offered for Members to attend one convenient to them.

Code of Conduct and Town/Parish Councils

3.17 The Monitoring Officers for all principal authorities in Oxfordshire have been keen to ensure as far as is possible that the revised Code of Conduct applies to Councillors at all three tiers of local authority in the County (County, District and Town/Parish) both in the interests of general consistency but also to assist those many members who are twin and in some cases triple hatted.

3.18 Whilst it is for each Town and Parish Council to adopt its own Code of Conduct, the majority have adopted the same current Code of Conduct as adopted by CDC.

3.19 To continue this consistency, it is recommended for Council to endorse the Members' Code of Conduct for adoption by the Town and Parish Councils in the Cherwell District. Subject to the agreement of Full Council, the Monitoring Officer would liaise with Town and Parish Clerks regarding the adoption of the revised Code.

4.0 Conclusion and Reasons for Recommendations

4.1 The recommendation from the Standards Committee to Council to adopt the revised Code of Conduct will support Councillors in maintaining high standards of conduct and provide consistency with all Oxfordshire principal authorities.

5.0 Consultation

None in relation to the preparation of this report.

6.0 Alternative Options and Reasons for Rejection

6.1 The following alternative options have been identified and rejected for the reasons as set out below.

Option 1: Not to adopt the revised Members' Code of Conduct. This is not recommended as it would result in a different Code applying in Cherwell District to the other Oxfordshire principal authorities.

Option 2: To adopt an amended version of the revised Members' Code of Conduct to Council for adoption. This is not recommended as the Oxfordshire Monitoring Officers have worked collaboratively on the proposed Draft Code of Conduct to retain a consistent Code of Conduct across the Oxfordshire principal authorities. It has been considered and recommended for adoption by the Council's Standards Committee.

7.0 Implications

Financial and Resource Implications

- 7.1 There are no financial implications arising directly from this report.

Comments checked by:

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Legal Implications

- 7.2 Under the Localism Act 2011, each local authority has a duty to adopt a Code of Conduct dealing with the conduct that is expected of members and co-opted members, when they are acting in that capacity.
- 7.3 The code must be consistent with the Nolan principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership. Councils must also ensure that their codes include appropriate provisions about declaring pecuniary and other interests.
- 7.4 There is no national prescribed version of a code in England and no obligation to adopt a particular model. The LGA Model Code is suggested national good practice, and Councils can adopt this revised code, or adopt their own local code.
- 7.5 As set out in the body of this report, the Monitoring Officers across Oxfordshire have worked together to review the LGA Model Code and have suggested some changes to the format and style, with the aim of producing a Code that could be adopted on a county-wide basis.

Comments checked by:

Shahin Ismail, Interim Assistant Director Law, Governance & Democratic Services & Monitoring Officer, shahin.ismail@cherwell-dc.gov.uk

Risk Implications

- 7.3 Without effective standards arrangements in place there is a risk to the council's reputation and the preferred recommendation outlined in the report mitigates reputational and legal risks.

Comments checked by:

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Equalities and Inclusion Implications

- 7.4 The Code of Conduct addresses discrimination and inequality and will see a commitment from Councillors not to discriminate against any person or community and act as advocates in promoting equality. This is in line with the Council's commitment to Equality, Diversity and Inclusion and it's Including Everyone framework.

Comments checked by:
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8.0 Decision Information

Key Decision

Financial Threshold Met: N/A

Community Impact Threshold Met: N/A

Wards Affected

All

Links to Corporate Plan and Policy Framework

None, this report is pursuant to a statutory requirement

Lead Councillor

None

Document Information

Appendix number and title

- Appendix 1 – Revised Members' Code of Conduct

Background papers

None

Report Author and contact details

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