

Status of Report: Public

Meeting: Corporate Governance Committee

Date: 9 March 2022

Subject: Members' Code of Conduct

Report by: The Solicitor and Monitoring Officer

Author: Lauren Haslam

For: Decision

Purpose

1. The purpose of this report is to present to the Corporate Governance Committee the revised Members' Code of Conduct adopted by Leicestershire County Council and for the Committee to determine whether it wishes for the revised code to be submitted to the Combined Fire Authority for approval

Recommendation

2. The Committee is asked to recommend that the Combined Fire Authority approves the adoption of the revised Code of Conduct for Members as set out in the Appendix to this report with effect from 1 May 2022.

Executive Summary

3. The revised Code is based on the new model code produced by the Local Government Association (LGA) following the recommendations made by the Committee on Standards in Public Life in 2019.
4. The CFA Code of Conduct mirrors the Leicestershire County Council Code of Conduct that was in place until 1st December 2021. At that point the County Council adopted a new Code based on the LGA model code with minor local variations. The district and borough councils in Leicestershire are in the course of adopting the same Code.
5. The City Council has made only minor changes to its existing code and at present does not intend to adopt the new model code. Rutland County Council is in the course of adoption of the new model code subject to approval by that Council at its meeting in April 2022.
6. It would be preferable in due course if all three constituent local authorities and the CFA shared a common code, but at present it is not possible to achieve

this. This will be kept under review by the Monitoring Officer liaising with the Monitoring Officers of the City Council, and the CFA will be advised of any changes in this respect. In the meantime it would be preferable if the CFA Member Code mirrored that of the County Council (and in due course the Rutland Council code) as before, so as to maintain and achieve consistency with the position that existed up until the County Council adopted the revised Code in December 2021.

Background

7. The Localism Act 2011 ('the Act') places the Authority under a duty to promote and maintain high standards of conduct. In discharging this duty, the Authority is required to adopt a Code dealing with the conduct that is expected of its members and co-opted members. The Act abolished the previous national model Code and instead imposed a simple requirement that each authority put in place a Code which, when viewed as a whole, is consistent with the seven principles of public life (selflessness, integrity, objectivity, accountability, openness, honesty and leadership), and which includes provisions in respect of the registration and disclosure of pecuniary interests and interests other than pecuniary interests.
8. The CFA's current Members' Code of Conduct is found in part 5 of the CFA Constitution. Under the Constitution, this Committee has responsibility for dealing with matters relating to the Code and is therefore the body responsible for ensuring the CFA fulfils its duty to promote high standards of conduct and to make recommendations to the CFA on the form of its Members' Code of Conduct.
9. In January 2021, the LGA issued a new draft model Code of Conduct. This was followed in July 2021 with detailed guidance on that model Code. This model Code has been developed by the LGA following a report by the Committee on Standards in Public Life which made various recommendations to strengthen the Code. The Committee was informed of this new model Code at its meeting on 14 July 2021 as part of the governance update.
10. The model Code, attached as an Appendix to this report, is based on Leicestershire County Council's Model Code, which has been adapted in a minor way to reflect local issues. In developing this, consideration was given to more extensive redrafting, but it was decided not to proceed with this, as there was a wish to avoid significant changes that would impact on the integrity of the LGA model.

The Model Code

11. The draft locally amended model Code is attached as an Appendix to this report. The main points to highlight are:

General

- (a) The application of the Code (page 2) which is expressed to apply 'when you are acting *or are claiming to act* in your capacity as a councillor'. This may include when you misuse your position as a councillor, or your actions give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor.
- (b) The section on behaviours is largely as per the CFA's current code except that it has been redrafted by the LGA to be expressed in the first person rather than the third person, as per the current CFA Code.
- (c) There is a new section requiring members to cooperate with an investigation and confirming that members will comply with any sanction imposed (paragraph 9).
- (d) For the first time there is guidance (not part of the Code) dealing with social media issues. This is an area which generates a number of complaints and so guidance on this issue may be welcome.

Interests

12. The section on interests contains the most differences. The LGA model Code refers to three types of interest as follows:
- (a) *Disclosable Pecuniary Interests* - Disclosable Pecuniary Interests (or 'DPIs') were introduced by s30 of the Localism Act 2011. They are a category of interests which relate to the member and/or their partner, such as financial interests. For example, your house or other property, or if you have a job or own a business. The categories are set out in regulations made under the Act and knowing non-compliance is a criminal offence.
 - (b) *Other registrable interests* - These are categories of interest which have been identified by the LGA as requiring registration as an aid to transparency. These relate to:
 - Details of any body of which you are a member or in a position of general control or management and to which you are appointed by your local authority.
 - Details of any body of which you are a member or in a position of general control or management and which exercises functions of a public nature, is directed to charitable purposes, or has the principal purpose of influencing public opinion or policy.
 - Details of any gifts or hospitality with an estimated value of more than £50 received in connection with your official duties.
 These interests are personal to you only and do not apply to your spouse /partner etc.
 - (c) *Non- registrable interests* - These are your own interests or those of your family/relative/close associate etc. which are not required to be registered but will need to be declared as and when they arise.

Declarations at meetings

13. The requirement to declare an interest at a meeting is as follows:

- (a) **DPI** - Where you have a Disclosable Pecuniary Interest in any matter to be considered at a meeting you must disclose the interest, not participate in any discussion or vote on the matter and you must not remain in the room unless you have been granted a dispensation.
- (b) **Other Registrable Interests –**
- Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests, you must disclose that interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting, but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.
 - Where a matter simply **affects** such an interest, then you must disclose it and apply the test detailed below.
- (c) **Non-registrable interests -**
- Where a matter arises at a meeting which **directly relates** to your financial interest or well-being or a financial interest or well-being of a friend, relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.
 - Where a matter arises at a meeting which **affects** your own financial interest or well-being, a financial interest or well-being of a relative or close associate, you must disclose the interest and apply the test below.

The test

Where a matter **affects** the financial interest or well-being you or a friend, relative, close associate or a body of which you are a member/in general control of:

- (i) to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision; and
- (ii) a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest;

you may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room

(unless you have been granted a dispensation).

If the matter affects your interest to a greater extent than it affects the financial interests or wellbeing of the majority of inhabitants of the ward affected by the decision, but a reasonable member of the public would *not* believe it would affect your view of the wider public interest then you may remain in the room, participate in the discussion and vote.

13. The table below is extracted from the LGA guidance to assist in understanding how the various interests will apply in practice:

No.	TYPE	SPEAK*	VOTE	STAY	EXAMPLE	COMMENTS
1	DPI	N	N	N	Awarding a contract to your own company Planning application for your property Resident parking zone includes your house	<i>Directly relates to DPI-foreseeable-narrow-criminal</i>
2a	ORI	If public allowed to	N	N	Awarding/withdrawing grant funding to a body of which you are a member e.g. village hall Granting planning permission to a body of which you are a member	<i>Directly relates to finances-foreseeable-narrow-can "address" meeting if public can do, but not take part in discussion.</i>
2b	ORI	Test	Test	Test	Awarding grant funding to a body other than the body of which you are a member e.g. competitor to village hall	<i>Affects finances or wellbeing-test (1) greater than majority of inhabitants and (2) reasonable public-affect view of public interest</i>
3a	NRI	If public allowed to	N	N	Determining an application submitted by your sister or your neighbour for a dog breeding licence Partner with free parking permit and policy review decision to be made Councillor objects in private capacity to neighbours planning application cannot sit on PC as statutory consultee	<i>Directly relates to finances of you, partner (not a DPI)-a relative or close associate- Unforeseeable- can "address" meeting if public can do, but not take part in discussion.</i>

3b	NRI	Test	Test	Test	Application for housing development on land near to partners business property Your neighbour applies for planning permission	<i>Affects finances or well-being-test 1) greater than majority of inhabitants and (2) reasonable public-affect view of public interest</i>
2b/3b	NRI	Test	Test	Test	Road works noise outside your house Odours from nearby refuse tip ASB from rough sleepers housed in B+B's nearby	<i>May not affect finances but Well-being=quality of life – apply 2-stage test</i>

The Constitution

14. The Members' Code of Conduct forms Part 5 of the CFA's Constitution. Article 9.5 of the Constitution gives the Monitoring Officer a duty to maintain the Constitution. Any changes may only be made by the CFA (Article 4, 4.2, (g)) following consideration by the Corporate Governance Committee (Article 5, 5.2, (r)).
15. If the Committee resolves to change Members' Code, this will be presented to the CFA at its next meeting on 15 June 2022 with a view to the Constitution being amended thereafter.
16. A comprehensive training programme will be developed to ensure Members are aware of the changes and conversant with the terms of any Code adopted.

Report Implications/Impact

Legal (including crime and disorder)

17. The Localism Act 2011 places a duty on the CFA to promote and maintain high standards of conduct. Reviewing and refreshing the CFA Members' Code and adopting the recommended LGA model Code of best practice assists in meeting this duty.

Financial (including value for money, benefits and efficiencies)

18. There are no financial implications arising from this report.

Risk (including corporate and operational, health and safety and any impact on the continuity of service delivery)

19. There are no risks arising from this report.

Staff, Service Users and Stakeholders (including the Equality Impact Assessment)

20. There are no staff, service users, stakeholder or equality implications arising from this report.

Environmental

21. There are no environmental implications arising from this report.

Impact upon "Our Plan" Objectives

22. Governance is one of the key five corporate strategies that support the Service to achieve its aims in each priority area. Robust governance arrangements includes the application of the Members' Code of Conduct to help maintain high standards of conduct and ethical behaviour.

Background Papers

LGA Model Code of Conduct

<https://www.local.gov.uk/publications/guidance-local-government-association-model-councillor-code-conduct>

Constitution of the Leicester, Leicestershire and Rutland Combined Fire Authority.

<https://leics-fire.gov.uk/wp-content/uploads/2021/07/updated-constitution-2021.pdf>

Appendices

Appendix - LGA Model Code with local amendments

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