



Response to consultation on 2020 LGA model code of conduct

This is a response from the Centre for Public Scrutiny to the LGA's consultation on the model member Code of Conduct.

The Centre for Public Scrutiny provides assistance to councillors across England on matters relating to corporate governance and scrutiny. In this role we engage closely on matters relating to personal conduct and standards. These issues can, if not handled properly, have a significant negative impact on local authority governance.

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Generally: councils' political and organisational culture

The ability of councillors and councils to be able to rely on the Code to monitor and police behaviour rests on the authority's culture. Compliance with the Code cannot be enforced except insofar as the council may be able to take action to censure its members through the work of the Standards Committee; the absence of a national scheme for standards and conducts limits the ability of councils and councillors to be able to seek support from external sources.

The Code, then, can only be seen as a framework within which councillors and officers can more meaningfully discuss and agree standards of behaviour. On its own the Code cannot be a panacea, enforcing positive standards simply because it is an important document; neither can it enforce those standards because certain powers of censure sit behind it, enforcing compliance. Adherence to the contents of the Code require that councillors and officers recognise its utility in ensuring that local authorities, and local democracy, can function effectively – that it is a tool for protecting everyone's interests. For this reason, adoption of the Code should go hand in hand with meaningful member-officer discussions about roles, relationships and behaviours. This is particularly the case now, when pressures on councils, and local governance, are so extreme.

Generally: acting as a councillor

Increasingly, we note a blurring between councillors' "formal" role and their ability to be able to act freely as private citizens. This is particularly the case in relation to the use of social media.

Social media can be a challenging place for councillors. It is a vital tool for communicating with constituents, and for political campaigning. Councillors might use social media for communicating in their professional and private lives, and may use the same account for all of this communication.

Some social media activity might be seen by councillors as being carried out in a private capacity; to another observer such activity might be seen as part of that councillor's official role. Understanding the acceptability of different activity in different contexts is highly subjective. Often, council staff are less literate in matters relating to social media than councillors themselves are, which leaves councillors further exposed and in receipt of advice from their council which may be irrelevant, inaccurate or out of date.

While it is not for the Code of Conduct to delve into the issue of where and when councillors are acting in which capacity, this is a matter that will need to be resolved at a local level if the Code is to have full effect.

Civility, bullying and harrassment

We agree that courtesy in behaviour, speech and in the written word are important. Treating others with respect is critical to local authorities being able to transact business. However, calls for "civility" can be misused, by those seeking to police the tone of their political opponents, and by those seeking to maintain a form of discourse in local authorities that is exclusionary, and difficult to understand and participate in by the uninitiated.

Passion and anger are important parts of debate. Calls for civility can seek to recast this disagreement as an issue of etiquette, and they make it easy for people to dismiss their opponents as intemperate and impolite.

Calls for civility can also seek to ignore and elide the real microaggressions that people (including councillors) in more vulnerable positions because of their age, gender, ethnicity or disability may experience. Calling out coded, subtle aggressions can be seen itself as incivil. In a macro sense, calls for civility can go alongside calls for the retention and protection of privilege.

This can and will spill over into matters relating to bullying and harassment. Bullies will often see themselves as victims – often of incivil behaviour or "bad faith" actions on the part of their victims.

Councils need a more nuanced and reflective way to understand and act on dialogue and relationships. We think that the Model Code should include more of a critical summary of formal and informal behaviours, encouraging

councillors to explore these issues and how they might impact on their peers individually and collectively.

Officer neutrality

In our experience, the principle of officer neutrality can often be misunderstood. Poor demarcation of roles between members and officers can lead to accusations that the officer corps has been “captured” by the executive, and the general belief that officers work for the administration. Supporting information, training and development on this point should focus – including training carried out within councils – should highlight and reflect on this issue with both members and officers.

Other subjects

On confidentiality, there will be occasions where councillors can and should disclose information in the course of activities relating to whistleblowing, and the model code should make reference to this.

On disrepute, we have no comments.

On councillors’ position and use of resources, councillors are likely to need additional support to understand how opportunities relating to the councillor position might be seen as being misused. This links to earlier points on members understanding how and when they are acting as a councillor.

On interests, we believe that councillors are likely to need enhanced assistance and advice in respect of planning and licensing matters; the Code might make reference to this.

On gifts and hospitality we have no comments.

Centre for Public Scrutiny

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