

Report title: LGA Model Code of Conduct	
Report to: Audit, Governance and Standards Committee	
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Date: 21 March 2022	For: Decision
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County Divisions affected: All Essex	

1. Purpose of report

- 1.1 This report asks the Committee to adopt the revised LGA model code of conduct. In December 2020, following a consultation, the Local Government Association (LGA) published a model code of conduct regulating the standards of behaviour expected of councillors. This report asks the Committee to review the Code and decide whether or not to recommend that the Council adopts it.

2. Recommendations

- 2.1 That the Committee makes a recommendation to Council that Essex County Council should adopt the LGA Model Code of Conduct with effect from 1 June 2022.

3. Background and Issues

- 3.1 In early 2019 the national Committee on Standards in Public Life published a report on standards in local government. They made a number of recommendations to local authorities, to the LGA and to central government. ECC has broadly implemented the recommendations. Central government still has not yet responded to the recommendations and we do not yet know when it will react, although a response is said to be expected soon.
- 3.2 The key recommendation to the LGA was that it should produce a model code for local authorities to consider adopting. At present all local authorities have their own code. A 'model' code was produced by the Essex authorities in 2012 but almost all authorities – including ECC – have amended the 'model' code to reflect their own circumstances. Over time the authorities have carried out further reviews and most authorities are now using a code which, though based on the original Essex Code, has significant differences.
- 3.3 This has a particular impact on members of ECC given that 84% of the members elected in May 2021 are members of at least one other authority,

and 20% are a member of two other authorities. It is possible that a member may be subject to four different codes of conduct at different times.

- 3.4 ECC's starting point should therefore be that it would welcome the introduction of a model national code, in the hope that all Essex authorities will adopt it. The adoption of a national code would of course mean that ECC has to accept a code designed for all local authorities rather than specifically for ECC, but the benefits of all Essex local authorities using the same code, could be thought to outweigh these disadvantages.
- 3.5 In December 2020 the LGA code was published. The Committee considered the draft code in March 2021 but most Essex authorities were not at that stage intending to adopt it. This was because there were a number of concerns about the clarity of the rules about declaring interests. As a result this committee decided not to recommend adoption, but to keep a watching brief on the situation.
- 3.6 In May 2021 the LGA published a revised version of the model code. This addresses the main concerns that monitoring officers had with the LGA code. Essex monitoring officers met and decided that they would explore with their authorities whether or not they would be prepared to adopt the model code, with most monitoring officers feeling that they would be prepared to recommend it to their authorities and that the 2022 annual meeting would be a good time for the new code to take effect.
- 3.7 A quick survey of monitoring officers carried out before this meeting suggests that there has been a significant shift in opinion across the Essex authorities and most authorities are now working towards adopting the LGA code, although given that there are thirteen local authorities in the county it is perhaps unlikely that all thirteen will adopt by June 2022.
- 3.8 It therefore seems sensible to review whether ECC should now adopt the national code. ECC members have the most to gain from a single code.

What would adopting the Code mean?

- 3.9 If ECC adopts the code then we will need to ensure that there is a programme of communications and training for all councillors. In terms of the key differences it is useful to consider three aspects of the code –
- rules of behaviour
 - registration of interests and gifts
 - declaring interests.
- 3.10 **The rules of behaviour** are very similar to the current ECC code. The rules on non-discrimination are slightly different and would allow an argument that a decision taken by a cabinet member is a breach of the code if it discriminates. However, such a complaint would not be likely to be investigated as under our current policy, so this is unlikely to create any problems in practice. The LGA code includes a definition of bullying, something which our code does not have. The Committee on Standards in Public Life recommends that local authorities include such a definition in their code.

- 3.11 **The rules about registering interests** would mean that fewer interests would be required to be registered under the LGA code than under the current ECC code. Members would no longer be required to register:
- tenders submitted to ECC within the last two years
 - contracts with ECC which have expired in last two years
 - contracts with ECC subsidiary companies.
- 3.12 This would perhaps slightly reduce transparency, but members would still be required to register live contracts with the Council.
- 3.13 The **threshold for registration of gifts and hospitality** would be increased from £25 to £50. Gifts or hospitality under £50 would not need to be registered. The £25 limit was set in 2001 so is due for a review; many other authorities have increased the registration threshold. In addition there is a requirement in the code to register offers of gifts/hospitality over £50 which have been refused – this is not in our current code.
- 3.14 **The rules on declaring interests** and leaving the room are similar to the current rules. They are more nuanced than the current rules although they are likely to operate in a similar way. For example, different rules apply where a decision *affects* your interest than if it *directly affects it*. In practice this does mean that district councillors will be unable to consider a matter which directly affects the other authority, although ECC will be able to grant dispensations. As an example, the Council currently grants a dispensation relating to membership of another local authority which allows members to speak and vote on matters relating to their other authority.

Other considerations relating to the model code

- 3.15 The LGA code is likely to be reviewed regularly. Every time it changes ECC will need to consider to updating its own code to reflect the changes in the national code. The LGA have indicated that the code won't change in 2022.
- 3.16 If we adopt the model code, all members will need to review their register of interests as the requirements for registration are slightly different, although the requirements of the LGA code are slightly simpler.

Disclosable Pecuniary Interests

- 3.17 Most conflicts of interest arise between members are disclosable pecuniary interests. The current rules are set by law and won't change as a result of adopting the code.

Conclusion

- 3.18 The version of the LGA code published in May 2021 is a significant improvement from previous versions. Moving to the national code can only help the council demonstrate high standards of conduct and it will make things much simpler for members who are twin hatted, if their district also adopts the

model code. On balance it is now recommended to adopt the code of conduct.

4. Financial Implications

4.1 This report has no financial implications.

5. Legal Implications

5.1 The Council is required by the Localism Act 2011 to adopt a code of conduct which is consistent with the 'Nolan' principles. It has a wide discretion as to what the code says, but there is a clear benefit to it being consistent with codes adopted by other authorities where there is an overlap of membership between ECC and the other authority.

6. List of Appendices

Model LGA code, current version.

7. List of background papers

Correspondence between ECC with monitoring officers and the LGA to the extent that such correspondence does not include exempt information.