

ARUN DISTRICT COUNCIL

REPORT TO THE STANDARDS COMMITTEE ON 18 FEBRUARY 2021

SUBJECT: Review and Revision of the Member Code of Conduct

REPORT AUTHOR: Solomon Agutu - Interim Monitoring Officer
DATE: February 2021
EXTN: 37432

EXECUTIVE SUMMARY:

The Local Government Association has adopted a New Model Councillor's Code of Conduct 2020.

It is open to the Council to adopt this Code of Conduct in whole, or with amendments. Alternatively, the Council can amend its existing Member Code of Conduct.

RECOMMENDATIONS:

The Committee is asked to recommend to Full Council that:

- 1) Full Council notes that the adoption of a Code of Conduct for Members is merely one aspect of the overriding duty to promote and maintain high standards of conduct my Members;
- 2) The Local Government Association's New Model Member Code of Conduct 2020 be adapted with the substitution of the Arun Appendix B for the LGA Appendix B and adopted in principle as the proposed Statutory Arun Member Code of Conduct; and
- 3) Where Committee agrees to 2 above, the Interim Monitoring Officer consult with the County Council and the ADC Parish Councils with a view to adopting a consistent code across Arun District.

1. BACKGROUND:

- 1.1 All "relevant authorities" are required to promote and maintain high standards of conduct by Members and co-opted Members of the Authority. Arun District Council is a "relevant" authority for these purposes. This duty can be discharged in many ways but Parliament has required that the Council must in addition to anything else it does in promoting high standards it must in particular adopt a code dealing with conduct that is expected of Members and Co-opted Members when they are acting as Members and Co-opted Members.

- 1.2 On 20 February 2020, the Standards Committee resolved that the Group Head of Council Advice & Monitoring Officer produce a revised draft of the Members Code of Conduct. Due to COVID-19, other priorities took precedence. By coincidence, the Local Government Association (LGA) started to consult on a new Model Member Code of Conduct (New Code) between 8 June 2020 – 17 August 2020. In discussion between the Interim Monitoring Officer and Chairman of the Standards Committee, it was agreed that the LGA new Model Member Code be brought before Standards Committee as part of the review.
- 1.3 On 3 December 2020, the LGA adopted the New Model Code, as recommended by the Committee on Standards in Public Life's report into Local Government Ethical Standards. In producing and adopting the Code, the LGA consulted widely; examined good practice in local government and other professions. The LGA intends to create additional guidance, working examples and explanatory text in due course.
- 1.4 The LGA have sought to address issues arising through more communication taking place remotely and online between Members and residents, particularly through social media. It has also concluded unhappily that, abuse, threatening and intimidatory communications continue to be unacceptable, and the New Code seeks to address this.
- 1.5 The New Code has been designed to protect Members' democratic role, encourage good conduct and safeguard the public's trust in local government.
- 1.6 The New Code is explicit that it applies when a Member acts or claims or gives the impression that they are acting, as a Member. This applies to all forms of communication and interaction, including social media.
- 1.7 The New Code has as required by law been developed in line with these seven principles of public life:
 1. selflessness;
 2. integrity;
 3. objectivity;
 4. accountability;
 5. openness;
 6. honesty;
 7. leadership.

The Current Code has not incorporated these principles but has set them apart as Section 1 of Part 8 and the Member Code is set out in Part 8 Section 2.

- 1.8 The New Code sets out the specific obligations of general conduct that should be followed. These obligations are mostly already in the Arun Code. However, the new Code is seeking to clarify areas where experience has demonstrated difficulty in enforcements:

- a) Treating other Councillors and members of the public with civility where “civility” has been used in instead of “respect” which has proved to be an amorphous word.
- b) Treating Council employees, employees and representatives of partner organisations and those volunteering for the Councils with civility and respecting the role that they play.
- c) Not bullying or harassing any person - adopting the ACAS code of practice definition in order to aid clarity
- d) Not compromising, or attempting to compromise, the impartiality of anyone who works for, or on behalf of, the Council.
- e) Not using, or attempting to use, my position improperly to the advantage or disadvantage of myself or anyone else.
- f) Not misusing Council resources.
- g) Registering and declaring DPI and Other interests but removing reference to Personal Interests and “pecuniary interests”.
- h) Not accepting significant gifts or hospitality 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.
- i) Registering with the monitoring officer any gift or hospitality with an estimated **value of at least £50 within 28 days of its receipt.**

1.9 If the New Code is adopted, consequential changes will be required to the Constitution, including:

- Deleting the whole of Part 8 Section 1 which has now been incorporated into the Code thus combining section 1 with Section 2 of Part 8;
- Part 8 Section 2 paragraph 2 General Conduct, this will need amending to reflect the general conduct obligations as set out in the New Code.

1.10 The LGA Model Code uses slightly different terminology for declaring interests . For instance, what is now called “Personal Interests” are renamed “Other Registrable Interests”. The Interim Monitoring Officer takes the view that the current Arun scheme for declaring interests is clearer than the Model Code and recommends that Appendix B of the LGA Model Code be substituted with the Arun Scheme of declarations of Interests.

2. PROPOSALS

The Standards Committee recommends to Full Council that:

Approve the customised Code of Conduct for consultation with Parishes within Arun District Council and report back to Standards Committee on the outcome

3. OPTIONS:

- 1) Recommend to Full Council the adoption in full of the Local Government Association New Model Member Code of Conduct 2020; or

- 2) Recommend to Full Council the adoption of the Local Government Association New Model Code of Conduct with local amendments as set out in the Annexe to this report after Consultation with Parish Councils within the District Council area; or
- 3) Reject the Local Government Association New Model Code of Conduct; and resolve that the Acting Monitoring Officer produces a revised draft of the existing Members' Code of Conduct for consideration at a future Standards Committee

4. CONSULTATION:

Legal

Section 27(1) of the Localism Act 2011 (the Act) provides the authority must promote and maintain high standards of conduct by Members of the authority.

Section 27(2) of the Act provides the authority must adopt a code of conduct that is expected of Members when acting that capacity.

Section 28 of the Act provides the authority must adopt a Code of Conduct consistent with the seven principles of public life.

Section 28(5) of the Act provides that an authority may revise its existing code of conduct or adopt a code of conduct to replace its existing code.

The CSPL was concerned about the lack of consistency in codes of Conduct within Counties and within Districts with risk of confusion for Members who are twin or triple hatted. Limited consultation with Parish Councils has revealed that they want ADC to take a lead in recommending a way forward. It is proposed therefore that if the customised code is acceptable in principle to Standards Committee that there is a second round of consultation with the Parish Councils with a view to getting them to agree it before it is recommended to full Council for adoption.

Has consultation been undertaken with:	YES	NO
Relevant Town/Parish Council	Yes	
Relevant District Ward Councillors	N/A	N/A
Other groups/persons (please specify)		
5. ARE THERE ANY IMPLICATIONS IN RELATION TO THE FOLLOWING COUNCIL POLICIES: (Explain in more detail at 6 below)	YES	NO
Financial		No
Legal	Y	
Human Rights/Equality Impact Assessment		NO
Community Safety including Section 17 of Crime & Disorder Act		NO
Sustainability		NO
Asset Management/Property/Land		No
Technology		No
Other (please explain)		

6. IMPLICATIONS:

Adopting the New Code will provide clear expectations on Members as to their conduct and will manage public expectations.

7. REASON FOR THE DECISION:

A Member Code of Conduct is required by Section 27 of the Localism Act 2011. Local Government Act 1999 requires the council to continuously improve in efficiency economy and effectiveness. The transition to Committee style government would have in any case required the review of the Code of Conduct in order to at least remove references to Cabinet and to Overview and Scrutiny.

Secondly remote working, meetings and communications has underscored the need to update the Code to reflect increased means of communication between Members and the public, including through social media.

Thirdly the council is learning from the experience of implementing the current Code.

Finally, the coincidence of the LGA producing a model code based on widespread consultation has allowed the Council to benefit from that exercise.

Retaining the current Appendix B of the Arun Code ensures that Members and co-opted Members do not need to get to grips with different terminology for declaring interests.

8. BACKGROUND PAPERS:

Local Government Association Model Member Code of Conduct 3 December 2020

Committee on Standards in Public Life publication: Local Government Ethical Standards (January 2019)

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/777315/6.4896_CO_CSPL_Command_Paper_on_Local_Government_Standards_v4_WEB.PDF