


<b>LONDON BOROUGH OF CAMDEN</b>	<b>WARDS:</b> All
<b>REPORT TITLE</b> Updating the Members' Code of Conduct	
<b>REPORT OF</b> Borough Solicitor	
<b>FOR SUBMISSION TO</b> Standards Committee	<b>DATE</b> 29 <sup>th</sup> June 2021
<p><b>SUMMARY OF REPORT</b></p> <p>Following consultation, the Local Government Association (LGA) has published its new Model Councillor Code of Conduct. This report provides background to the new Model Code and makes initial recommendations for amendments to strengthen the Model Code in line with decisions taken by the Council over recent years. Officers will work with the Committee on drafting the Council's new Code of Conduct, with the intention of referring to the Council to approve and adopt the updated Code into the Constitution later in the municipal year. The updated Code would then come into force following the local elections in 2022 and training provided as part of the induction programme.</p> <p><b>Local Government Act 1972 – Access to Information</b></p> <p>No documents were used in the preparation of this report which are required to be listed.</p> <p><b>Contact Officer:</b> Cheryl Hardman Principal Committee Officer Crowndale Centre 218 Eversholt Street London NW1 1BD 020 7974 1619 <a href="mailto:cheryl.hardman@camden.gov.uk">cheryl.hardman@camden.gov.uk</a></p>	
<p><b>RECOMMENDATIONS</b></p> <p>Standards Committee is asked to:</p> <ol style="list-style-type: none"> <li>1. Comment on the proposed new Camden Members' Code of Conduct at Appendix 3 and suggest any changes they consider would be appropriate;</li> </ol>	

2. Note the intention, subject to those comments and any steer by Committee, to return to this Committee for agreement and referral of the updated Code to Council later in the municipal year for final approval and adoption into the Constitution, with the Code coming into force following the local elections in 2022;
3. Note the need for training on the new Code of Conduct, including updated obligations within the Register of Interests, upon the Code being adopted into the Constitution and that it is proposed this occurs during the induction programme following the local elections in 2022; and
4. Note that officers will review standards documents such as the Gifts and Hospitality Protocol for Members and the Social Media Guidelines, as well as the Register of Interests form following consideration by the Committee of the proposed revised Code of Conduct, and report back on whether any changes are recommended.

Signed:

A handwritten signature in blue ink, appearing to read 'Andrew King', with a stylized flourish at the end.

Borough Solicitor

Date: 17 June 2021

## **1. Introduction**

- 1.1. Following consultation, the Local Government Association (LGA) has published its new Model Councillor Code of Conduct. This report provides background to the new Model Code and makes initial recommendations regarding its adoption, with amendments to strengthen the Model Code in line with decisions taken by the Council over recent years.
- 1.2. Given how significant the Code of Conduct is, it is considered appropriate to give the Committee two opportunities to review the proposed changes. This would allow a chance to do some more detailed drafting, further reviewing or allow groups to discuss the matters raised, before asking full Council to approve the new Code of Conduct.

## **2. Requirement to Adopt a Code of Conduct**

- 2.1. Local Authorities have a statutory duty to adopt a Code of Conduct for its Members, consistent with the Seven Principles of Public Life, and including provisions for registering and declaring pecuniary and non-pecuniary interests<sup>1</sup>. Camden's Members' Code of Conduct is contained within the Constitution of the Council and is attached at Appendix 1 for information.

## **3. Consultation on a draft Model Code of Conduct**

- 3.1. In its report on [Local Government Ethical Standards](#)<sup>2</sup>, the Committee for Standards in Public Life (CSPL) recommended that the Local Government Association (LGA) should create an updated model Code of Conduct. This was to address inconsistency that had developed between local Codes of Conduct since the Localism Act 2011 was introduced, creating confusion amongst Members and the public. The report noted that there are common expectations among the public regardless of geography or tier. However, the existing model Codes of Conduct reviewed by CSPL compared unfavourably to bespoke Codes.
- 3.2. The LGA agreed to begin reviewing the model Code in September 2019, ahead of the Government's response to the CSPL's recommendations. Hoey Ainscough was appointed through a competitive exercise to work with the LGA on the review.
- 3.3. The LGA's objectives<sup>3</sup> in reviewing the model Code of Conduct were to:
  - articulate what local government believes are good standards for all in public office

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<sup>1</sup> <https://www.legislation.gov.uk/ukpga/2011/20/section/28/enacted>

<sup>2</sup>

[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](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)

<sup>3</sup>

<https://www.local.gov.uk/sites/default/files/documents/191003%20public%20document%20on%20civility%20in%20public%20life%20%28Autosaved%29.pdf>

- show leadership in good standards of Conduct for those in public office, both elected and as employees
- achieve consensus between the stakeholders affected by local government Conduct
- support its member councils and partners in achieving good standards of Conduct
- produce a Code that is fit for purpose, useful and held in high regard
- enhance the reputation of local government and local politicians
- support the good running of councils
- support all democratically elected local representatives to deliver their best on behalf of their local communities
- build on the good practice that already exists within member councils

3.4. During the first stage of the review, views and good practice examples were gathered. A series of workshops were held to review what worked and to develop some broad principles.

3.5. As a result of the Covid-19 national emergency, the publication of the draft model Code of Conduct and consultation was delayed. The consultation began on 8 June 2020 and closed on 17 August 2020. During this period, Camden Council's Standards Committee did not hold a formal meeting. Therefore, a draft response was prepared by the Monitoring Officer, who consulted on it with members of the Committee via email and an informal remote meeting on 4 August 2020. Feedback from Members and the Independent Persons was incorporated into the final response by the Council's Monitoring Officer, which was submitted on 6<sup>th</sup> August 2020 and shared formally with the Committee for information at its meeting on 9<sup>th</sup> November 2020.

3.6. An [analysis of the consultation response](#) has been published by the LGA on its website.

#### **4. Model Councillor Code of Conduct 2020**

4.1. The LGA Board approved its final Model Councillor Code of Conduct, taking account of the consultation responses, on 3<sup>rd</sup> December 2020. The final [model Code of Conduct](#) was published on the LGA website on 23<sup>rd</sup> December following further minor editorial changes and is attached as Appendix 2.

4.2. The final model Code of Conduct adopts some distinct language choices in comparison with previous model Codes. For example, it seeks to use Plain English throughout to be more accessible to the public, uses councillor rather than Member (although co-opted Members are referenced as included in the definition of councillor), and uses a personal tense when setting out specific obligations. The format of the new model Code sets out guidance after each obligation.

4.3. Some other key points about the new model Code of Conduct are:

- It specifically references applying to all forms of communication and interaction, including ... “in electronic and social media communication, posts, statement and comments”.
- The obligation to treat others with ‘civility’ has been changed to ‘respect’ as encouraged by the Monitoring Officer’s response to the consultation.
- The definition provided for harassment is now taken from the Protection from Harassment Act 1997 rather than the Equality Act 2010. Following Members’ suggestions, the Monitoring Officer’s consultation response had suggested that the LGA consider defining harassment in a way that did not require the protected characteristics to be engaged.
- A specific obligation to promote equalities and to not discriminate unlawfully against any person has been added. The Monitoring Officer’s response had recommended this, highlighting the obligation in the Council’s current Code.
- The draft model Code had been unnecessarily restrictive with regard to the disclosure of information received in confidence, only allowing disclosure if a councillor had the consent of the persons authorised to give it or if required by law. The final model Code includes the further exceptions already in the Camden Code of Conduct while adding a requirement that a disclosure in the public interest and in good faith be allowed provided the councillor has consulted the Monitoring Officer.
- An additional obligation has been included to not improperly use knowledge gained solely as a result of a councillor’s role for the advancement of themselves, their friends, family members, employer or business interests.
- The draft model Code had included an obligation to not misuse council resources. This obligation has been expanded to include the need to act in accordance with the local authority’s requirements and to ensure that such resources are not used for political purposes, both of which are already part of the Council’s Code.
- Further obligations included in the final Code that were not part of the draft model Code of Conduct are the need to undertake Code of Conduct training, co-operate with investigations, and comply with any sanctions imposed. The Council had adopted the need to co-operate with investigations following the CSPL report on ethical standards.
- The need to register and disclose interests has been included as an obligation. The interests that are required to be registered are set out in Appendix B to the Code. This includes ‘Other Registerable Interests’ which are a version of the ‘Non-Pecuniary Interests’ in Camden’s existing Code. However, they have a specific definition and Members may need to declare and potentially not participate in a debate in a similar way to Disclosable Pecuniary Interests. The Monitoring Officer’s response to the consultation requested further definitions for many of the terms in this section of the Code but this has not been forthcoming.
- A series of obligations regarding gifts and hospitality have been included in the Model Code. These oblige Members not to accept ‘significant’ gifts and hospitality and to register any gifts or hospitality with an estimated

value of £50. This is a higher value than the Council has previously agreed was an appropriate sum to register.

- 4.4. It is noted that, as at the time of writing, separate Guidance commissioned by the LGA from Hoey Aniscough had not been published. This Guidance will provide clarity with regard to definitions within the section on interests. Further advice on the proposed new categories of interests will be provided to Standards Committee once the Guidance has been published.

## **5. Camden's Members' Code of Conduct**

- 5.1. While the language and format of the final 2020 Model Councillor Code of Conduct is different to Camden's Members' Code of Conduct (Appendix 1), the obligations included are very similar to Camden's existing Code and have become even more so following the consultation on the draft model Code. However, it is also noted that over time, the Council has adapted and strengthened its own Code of Conduct through additional obligations and guidance and these should not be lost where they have not been adopted by the LGA. It is therefore proposed, to address the inconsistency between Codes of Conduct while retaining local variation, to adopt the LGA model code while amending it to take account of decisions by Council over recent years, such as:

- The Council extended the definition of co-opted Member to include those who are not entitled to vote.
- The Council voluntarily included informal meetings in the requirement to disclose interests.
- The inclusion of obligations such as:
  - When using resources of the Council, or authorising their use by others, you must have regard to any applicable Local Authority Code of Publicity made pursuant to the Local Government Act 1986.
  - You must when in committee or Council behave in an appropriate way and under the direction of the Chair/Mayor. This includes using appropriate language, fit for the occasion and subject.
  - When reaching decisions on any matter you must have regard to any relevant advice provided to you by:
    - (a) Camden's Executive Director Corporate Services; or
    - (b) Camden's Borough Solicitorwhere those officers are acting pursuant to their statutory duties.
  - You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Council.
  - Without prejudice to any criminal offence which may or may not have been committed it shall be a breach of this code for a Member to have been engaged in treating as defined by Section 114 of the Representation of the People Act 1983.
  - You must not yourself bring, sponsor or support trivial or malicious complaints against other councillors pursuant to this Code.

- The Council previously reducing the threshold for when a failure to declare a gift is a breach of the code is lowered from £100 to £25.
- The Council previously agreeing to use formatting to clarify what are criminal sanctions.

5.2. Appendix 3 sets out the LGA final Model Councillor Code of Conduct, with track changes proposed to carry over key definitions, obligations and guidance from Camden's existing Members' Code of Conduct. Standards Committee is asked to consider and discuss the proposals, suggesting further changes if wished. The views of the Committee will be considered, with the revised Code brought back to a future meeting for agreement and referral to Council for final approval and adoption into the Constitution.

## **6. Implications of a new Code of Conduct**

6.1. Subject to approval by Council, the Code of Conduct would need to be updated within the Constitution of the Council. It would also be necessary to ensure that all Members and co-opted Members are aware of and trained on the updated Code of Conduct. Training with regard to Other Registerable and Non-Registerable interests, if these categories are adopted, is also advisable, with all Members needing to review and update their Register of Interests. Given the timing of these proposed changes within the election cycle, it is suggested that any decision taken by Council not come into force until 9 May 2022<sup>4</sup>. This would bring training on the revised Code of Conduct and the specific interests that Members would be obliged to register in line with the induction programme for the new Council.

6.2. Subject to approval of the updated Councillor Code of Conduct by Council, other protocols and documentation may require revision. It is proposed that standards documents such as the Gifts and Hospitality Protocol for Members and the Social Media Guidelines, as well as the Register of Interests form are reviewed following consideration by the Committee of the proposed revised Code of Conduct, with a report back on whether any changes are recommended.

## **7. Finance Comments of the Executive Director Corporate Services**

7.1. There are no financial impacts resulting from this report.

## **8. Legal Comments of the Borough Solicitor**

8.1. This is a report of the Borough Solicitor and there are no other legal comments.

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<sup>4</sup> In accordance with the provisions of the Local Government Act 1972, Schedule 2, councillors retire on the fourth day after an election and newly elected councillors shall come into office on the day on which their predecessors retire.

## **9. Appendices**

Appendix 1: Camden Council's current Members' Code of Conduct

Appendix 2: LGA Model Councillor Code of Conduct 2020

Appendix 3: Proposed new Camden Councillor Code of Conduct

**REPORT ENDS**