

# HAMPSHIRE COUNTY COUNCIL

## Decision Report

<b>Decision Maker:</b>	Conduct Advisory Panel
<b>Date:</b>	23 June 2021
<b>Title:</b>	Amendment to the Code of Conduct for Members
<b>Report From:</b>	Head of Law and Governance and Monitoring Officer

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### 1. Executive Summary

1.1. The purpose of this report is to update the Conduct Advisory Panel on the review of the County Council's Code of Conduct for Members following the publication of the Local Government Association's Model Councillor Code of Conduct 2020 and to seek the Panel's agreement to recommend the proposed amendments to the Code of Conduct for Members to the County Council for approval.

### 2. Contextual information

- 2.1. Part 7 of the Localism Act 2011 (the Act), Sections 26-37 introduced revised arrangements in respect of the Code of Conduct for Members. Subject to certain requirements, including the duty to adopt a code dealing with the conduct that is expected of Members and voting Co-opted Members when they are acting in that capacity, local authorities have the discretion to determine what may be included in their codes of conduct according to their own needs and resources.
- 2.2. By virtue of Part 1, Chapter 9, Paragraph 1.3.1 of the Constitution, the Conduct Advisory Panel has been delegated the role of advising the County Council on the adoption or revision of the Members' Code of Conduct under the Act.
- 2.3. In 2018, the Committee on Standards in Public Life (CSPL) undertook a review of the standards framework established by the Act. The CSPL review concluded with 26 recommendations for improvement being made to Government and other bodies, in addition to 15 areas of best practice directed at local authorities. One of the CSPL recommendations was directed at the Local Government Association (LGA) and concerned the creation of an updated model code of conduct which can be adapted by local authorities.
- 2.4. At its meeting on 24 October 2019, the Conduct Advisory Panel considered the CSPL's 15 best practice recommendations.

- 2.5. The Panel agreed that, once the LGA model code of conduct had been published, the County Council's Code of Conduct for Members should be reviewed to take account of the new model provisions and to adopt the CSPL's best practice recommendations 1 and 2, as follows:
1. Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.
  2. Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.
- 2.6. In respect of best practice recommendation 2, it was considered that the existing obligations within the County Council's Code of Conduct for Members were sufficient for the purpose of requiring councillors to comply with any formal standards investigation but that there should be included a reference to trivial and malicious allegations by councillors in order to be consistent with the CSPL's best practice.
- 2.7. The Panel further agreed that, following the review, the revised Code of Conduct be presented to the Panel for approval and recommendation to the County Council.
- 2.8. In December 2020, the LGA published its Model Councillor Code of Conduct 2020 (Model Code) which can be accessed via:  
[Model Councillor Code of Conduct 2020 \(local.gov.uk\)](https://www.local.gov.uk/model-councillor-code-of-conduct-2020)
- 2.9. In the interests of promoting consistency for shared members, a consultation exercise has been undertaken with Southampton and Portsmouth City Councils and the Hampshire District and Borough Councils to identify whether other local authorities will be revising their codes of conduct to adopt the provisions of the Model Code. The consultation also included comparator County Councils and national park authorities.
- 2.10. Only one authority indicated that they may seek to adopt the Model Code. The consensus from the consultation was that most authorities will not be adopting the Model Code at this time on the basis that it does not add material value to existing codes of conduct which, in many cases, have already been recently updated to implement best practice recommendations of the CSPL. There is also a recognition that there is likely to be the need for a further review if the Government accepts any of the CSPL's recommendations requiring legislative change, such as in relation to sanctions for breaches of the code of conduct.

### **3. Proposed Amendments to the Code of Conduct for Members**

- 3.1. A review of the County Council's Code of Conduct for Members has been undertaken by Officers taking account of the Model Code and the consultation responses received from other authorities in Hampshire and beyond.

- 3.2. It is not proposed that the Conduct Advisory Panel should recommend to the County Council the adoption of the Model Code. This is primarily because the format of the Model Code is significantly different to the County Council's Code of Conduct for Members but does not add new content of material value. In addition, there would be potential for confusion for Members as other Hampshire authorities are retaining their existing codes of conduct. Finally, there is potential for further significant changes if the Government amends the Act to adopt recommendations made by the CSPL.
- 3.3. However, in order to address the CSPL's best practice recommendation 1, it is proposed that the Code of Conduct for Members be amended to include an express prohibition on bullying and harassment and that the definition and examples of bullying and harassment included within the Model Code be incorporated into the Code of Conduct for Members. The revised Code of Conduct, incorporating these amendments, is attached at Appendix 1.
- 3.4. With regard to the CSPL's best practice 2, it is noteworthy that the Model Code does not include provision expressly prohibiting councillors from making trivial or malicious allegations.
- 3.5. If the Conduct Advisory Panel is minded to recommend to the County Council the incorporation of the Model Code's definition of bullying, this includes malicious behaviour. It is considered that, taken together with the existing provisions contained within the Code of Conduct for Members that require Members to value their colleagues and Officers of the County Council and engage with them in an appropriate manner, and to treat all people with respect and propriety, this is sufficient to be consistent with the CSPL's best practice. It is therefore not proposed to make any additional amendment to the Code of Conduct for Members to incorporate express reference to trivial or malicious allegations by councillors.
- 3.6. Finally, although the Code of Conduct for Members currently imposes obligations to comply with legislation, policies and procedures, and to treat others with respect, it is proposed that it would be appropriate to recommend to the County Council the addition of an express reference to the need to have due regard to the County Council's equality duties. The revised Code of Conduct, attached at Appendix 1, includes some suggested additional wording addressing this.

#### **4. Recommendation**

- 4.1 It is recommended that the Conduct Advisory Panel approve for recommendation to the County Council the revised Code of Conduct for Members as contained in Appendix 1 of this report.

CORPORATE OR LEGAL INFORMATION:

**Links to the Corporate Strategy**

**This proposal does not link to the Corporate Strategy but, nevertheless, requires a decision because of the requirements of the Localism Act 2011, and for the good governance of the County Council.**

**Other Significant Links**

<b>Links to previous Member decisions:</b>	
<u>Title</u>	<u>Date</u>
Conduct Advisory Panel – Report on Local Government Ethical Standards And Members' Code Of Conduct:  <a href="#">(Public Pack)Agenda Document for Conduct Advisory Panel, 24/10/2019 14:00 (hants.gov.uk)</a>	24 October 2019
<b>Direct links to specific legislation or Government Directives</b>	
<u>Title</u>	<u>Date</u>
Localism Act	2011
Relevant Authorities (Disclosable Pecuniary Interests) Regulations	2012

**Section 100 D - Local Government Act 1972 - background documents**

**The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)**

<u>Document</u>	<u>Location</u>
None	

## **IMPACT ASSESSMENTS:**

### **1. Equality Duty**

1.1. The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

**Due regard in this context involves having due regard in particular to:**

- a) The need to remove or minimise disadvantages suffered by persons sharing a relevant characteristic connected to that characteristic;
- b) Take steps to meet the needs of persons sharing a relevant protected characteristic different from the needs of persons who do not share it;
- c) Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity which participation by such persons is disproportionately low.

#### **1.2. Equalities Impact Assessment:**

Equality objectives are not considered to be adversely affected by the proposals within this report.

### **2. Impact on Crime and Disorder:**

Not applicable.

### **3. Climate Change:**

- a) How does what is being proposed impact on our carbon footprint / energy consumption?

Not applicable.

- b) How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts?

Not applicable.