

Consultation on Draft Model Code of Conduct

Response of the Monitoring Officer,

Westminster City Council

1.1. Introduction

- 1.2. This response to the consultation is from the Monitoring Officer of Westminster City Council.
- 1.3. The Monitoring Officer has opted for a narrative response but has tried to follow, as far as possible, the format of the online consultation questionnaire.

2. **Question 1: To what extent do you support the proposal that councillors demonstrate the behaviours set out in the Code when they are publicly acting as, identifying as, and/or giving the impression that they are acting as a councillor, including when representing their council on official business and when using social media?**

- 2.1. The Monitoring Officer supports the proposal that councillors demonstrate the behaviours set out in the Code when they are publicly acting as, identifying as, and/or giving the impression that they are acting as a Councillor, including when representing the Council on official business and when using social media. The words in brackets should be added when there is the necessary change in the law recommended by the Committee on Standards in Public Life.
- 2.2. The Council has produced guidance for members on the use of social media which was approved at a Council meeting on 26 June 2019 (attached). It currently does not form part of the code of conduct.
- 2.3. Further guidance on the use of social media would be welcome to help to achieve consistency between councils.

3. **Question 2: Is it sufficiently clear which parts of the Model Code are legal requirements, which are obligations, and which are guidance?**

- 3.1. Yes.

4. Question 3: Do you prefer the use of the personal tense, as used in the Code, or would you prefer the passive tense?

4.1. The Monitoring Officer prefers the use of the personal tense as proposed. It emphasises the obligations placed on the individual councillor.

5. To what extent do you support the 12 specific obligations?

5.1. *“Treating other councillors and members of the public with civility”.*

5.2. The Council’s current Code includes an obligation to “value and respect colleagues, staff, partners and the public, engaging with them in an appropriate manner that underpins the mutual respect between them that is essential to good local government

5.3. Please see Paragraph 9 for further comments on the use of the term civility.

5.4. Please see paragraph 29.7 (9) of the Council’s code of conduct

5.5. *“Treating council employees, employees and representatives of partner organisations and those volunteering for the councils with civility and respecting the role that they play”.*

5.6. Please see response at paragraphs 5.2- 5. 4 The Council’s current Code includes an obligation requiring Members to treat council officers, people in general, including partners and the public with value and respect. The Monitoring Officer recognises the importance of this obligation and is therefore in support.

5.7. Please see Paragraph 9 for specific comments on the use of the term civility.

5.8. *“Not bullying or harassing any person”.*

5.9. The Council’s current code includes an obligation for members not to act in a manner that could be deemed to be bullying, harassment or intimidation. The Monitoring Officer supports the inclusion of a specific obligation in the Code prohibiting the bullying and harassment of any person.

5.10. Please see paragraph 29.7 (9) of the Council’s Code

5.11. Please see Paragraph 10 for further comments.

- 5.12. *“Not compromising, or attempting to compromise, the impartiality of anyone who works for, or on behalf of, the council”.*
- 5.13. The Council's current Code includes an obligation expecting Members to uphold high standards of conduct.
- 5.14. Please see paragraphs 29.7 (1), (2) and (10) of the Council's Code.
- 5.15. The Monitoring Officer supports the inclusion of such an obligation.
- 5.16. *“Not disclosing information given to me in confidence or disclosing information acquired by me which I believe is of a confidential nature, unless I have received the consent of a person authorised to give it or I am required by law to do so”.*
- 5.17. The Monitoring Officer supports this obligation. The Council's current Code requires councillors *“to behave in accordance with all legal obligations, alongside any requirements contained within the City Council's policies, protocols and procedures, including on the use of the Council's resources and dealing with confidential information appropriately.*
- 5.18. Please see paragraph 29.7 (8) of the Council's Code.
- 5.19. *“Not preventing anyone getting information that they are entitled to by law”.*
- 5.20. The Monitoring Officer supports the inclusion of this obligation. The Council's current code requires members to “behave in accordance with all legal obligations...”
- 5.21. Please see paragraph 29.7 (8) of the Council's Code
- 5.22. Members receive annual training on data protection.
- 5.23. *“Not bringing my role or council into disrepute”.*
- 5.24. The Monitoring Officer supports the inclusion of this obligation. The Council's current Code includes a similar obligation “To promote and support high standards of conduct through leadership and by example, including not acting in a manner that that could be deemed to be bullying, harassment or intimidation.”
- 5.25. Please see paragraph 27.9 (10) of the Council's code.

5.26. *“Not using, or attempting to use, my position improperly to the advantage or disadvantage of myself or anyone else”.*

5.27. The Monitoring Officer supports the inclusion of this obligation which upholds the Nolan principle of Integrity. The Council’s current Code includes two obligations relating to the improper use of position to advantage oneself, and not to place themselves under a financial or other obligation to any individual or organisation that might seek to influence them.

5.28. “To act solely in the public interest and never to improperly confer or seek to confer an advantage or disadvantage on any person or act to gain financial or other material benefits for themselves, their family, friends or close associates”

5.29. “Not to place themselves under a financial or other obligation to any individual or organisation that might seek to influence them in the performance of their official duties”

5.30. Please see paragraphs 29.7 (1) and (2) of the Council’s code.

5.31. *“Not misusing council resources”.*

5.32. The Monitoring Officer supports this obligation but would suggest it also includes a specific requirement to comply with the Council’s policies, for example, on the use of Council supplied IT and systems.

5.33. See paragraph 29.7 (8) of the Council’s Code.

5.34. *“Registering and declaring my interests”.*

5.35. The Monitoring Officer supports this obligation. The Council’s current Code already requires Members to disclose disclosable pecuniary interests, and other interests, as outlined below.

“Any personal interest in any business of your authority where either it relates to or is likely to affect:

- (i) Any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority
- (ii) Anybody – (aa) exercising functions of a public nature (bb) directed to charitable purposes; or (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general conduct or management

- (iii) Any easement, servitude, interest or right in or over land which does not carry with it a right for you (alone or jointly with another) to occupy the land or to receive income.”
- 5.36. Please see paragraph 29.10 (3) of the Council's code.
- 5.37. “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”.
- 5.38. The Monitoring Officer supports this obligation.
- 5.39. Please see Paragraph 15 for further comments.
- 5.40. “Registering with the monitoring officer any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt”.
- 5.41. The Monitoring Officer supports this obligation. The Council's code requires members to within 28 days of receipt, notify or arrange for the Monitoring Officer to be notified in writing of any gift, benefit or hospitality with a value in excess of £25 which they have accepted as a Member from any person or body other than the City Council.
- 5.42. Please see Paragraph 16 of this report, for further comments.
- 5.43. Please see paragraph 29.11 (1) of the Council's Code.
- 6. Question 5: If you would like to propose additional or alternative obligations or would like to provide more comment on a specific obligation, please do so here.**
- 6.1. The Monitoring Officer is aware that some Council's codes include a requirement, for Members to respond to letters within particular timescales but is of the view that this should not be part of the code. It is noted the proposed model code of conduct does not include this.
- 6.2. The Monitoring Officer would support a requirement for Councillors to co-operate with any scrutiny or investigation.
- 7. Question 6: Would you prefer to see the obligations as a long list followed by the guidance, or as it is set out in the current draft, with the guidance after each obligation?**
- 7.1. There are pros and cons with either approach. Having the guidance after each obligation is more accessible and convenient. However, if the guidance is clearly separable from the Code the Monitoring Officer, with advice from the Standards Committee, could regularly and more easily update the guidance without having to review the Code.

- 8. Question 7: To what extent do you think the concept of ‘bringing the council into disrepute’ is sufficiently clear?**
- 8.1. The Monitoring Officer considers the concept of “bringing the council into disrepute” as being clear. The Council’s current Code includes an obligation to the same effect,
- 8.2. See paragraph 29.7 (10) of the Council’s Code.
- 9. Question 8: To what extent do you think the concept of ‘acting with civility’ is sufficiently clear?**
- 9.1. The Monitoring Officer acknowledges that the concept of civility is intended to broaden the provisions in relation to treating people with respect. The Council in its Code has used the term “respect”. The term respect is thought to demand more than the term civility. Civility is often associated with “politeness”, whereas respect is to “have due regard for the feelings, wishes or rights of others”. The Monitoring Officer has some concerns in terms of whether members of the public will understand what is meant by civility.
- 10. Question 9: To what extent do you support the definition of bullying and harassment used in the code in a local government context?**
- 10.1. The Monitoring Officer supports the inclusion of a definition of bullying and harassment to be used in a Code. The Council’s current code already has a similar provision. see paragraph 29.7 (9) of the Council’s code. The Council includes a definition of bullying and harassment in appendix 2 of its Code.
- 10.2. *Please* see paragraph 29.7 (9) of the Council’s code. The Council includes a definition of bullying and harassment in appendix 2 of its Code.
- 11. Question 10: Is there sufficient reference to the use of social media?**
- 11.1. The Monitoring Officer considers that there is sufficient reference to social media as a method of communication to which the obligations in the Code apply. This is a constantly changing area however where guidance will need to be reviewed and kept up to date. The Council currently has guidance for Councillors on the use of social media.
- 12. Question 11: To what extent do you support the code going beyond the current requirement to declare interests of the councillor and their partner?**
- 12.1. The Monitoring Officer considers that the requirements to declare interests i.e. in paragraphs 5 to 7 of Appendix B are appropriate. For the

consistency however there should be guidance, including examples, as to what is meant by “close associate”.

13. Question 12: Should the requirement to declare interests be in the main body of the code or in the appendix where the draft model currently references it?

13.1. The Monitoring Officer considers that the current draft, with the obligation contained in the body of the code and the detail in the appendix, is appropriate. The guidance should make it clearer however that the obligation goes further than declaring those interests which are registered i.e. that there are interests, where there is no requirement to register but which may have to be declared in meetings.

14. Question 13: To what extent do you support the inclusion of these additional categories for registration? If you would like to propose additional or alternative categories for registration, please provide them here:

14.1. The Monitoring Officer supports their inclusion but would suggest that the requirement to register membership of an organisation which has a principal purpose of influencing public policy might need to be refined. Should the requirement to register membership apply to an organisation whose (i) area of influence would not affect council policy or (ii) membership is extensive eg possibly the National Trust or the AA?

14.2. Unpaid directorships should be added to Table 2 pending any change in legislation.

15. Question 14: To what extent do you support the proposed requirement that councillors do not accept significant gifts as set out in Obligation 11?

15.1. The Monitoring Officer agrees with the proposed requirement that Councillors do not accept significant gifts 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.

15.2. This is in line with the principle of integrity under the Seven Principles of Public Life, but also consistent with the Council’s current Code which requires Members to “Not place themselves under a financial or other obligation to any individual or organisation that might seek to influence them in the performance of their official duties.”

15.3. The Council’s current code provides guidance on the principles Councillors should consider when deciding whether to accept any gift, benefit or hospitality.

15.4. Please see paragraph 29.11 (4) of the Council’s Code.

16. Question 15: The draft code proposes £25.00 as the threshold for registering gifts and hospitality. Is this an appropriate threshold?

- 16.1. The Council's current Code requires Members to notify the Monitoring Officer of any gifts or hospitality accepted with an estimated value of at least £25.00. The details are put on the Council's website.
- 16.2. The Monitoring Officer supports and particularly welcomes not receiving gifts and hospitality from developers, and thinks think significant should be defined or illustrated otherwise it is difficult to advice or enforce
- 16.3. Please see paragraph 29.11 (1) of the Council's Code.

17. Question 16: The Local Government Association will be producing accompanying guidance to the code. Which of the following types of guidance would you find most useful? (Please rank 1-5, with 1 being the most useful).

- 5 - Regularly updated examples of case law
- 1 - Explanatory guidance on the code
- 3 - Case studies and examples of good practice
- 2 - Supplementary guidance that focuses on specific areas, e.g. social media
- 4 - Improvement support materials, such as training and e-learning packages

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