

**TAVISTOCK TOWN COUNCIL  
BUDGET AND POLICY COMMITTEE  
TUESDAY 14<sup>th</sup> JULY, 2020**

**BRIEFING NOTE  
LOCAL GOVERNMENT ASSOCIATION – MODEL CODE OF  
MEMBER CONDUCT (CONSULTATION)**

**1. BACKGROUND**

- 1.1 Arrangements for the guidance and, where necessary, sanction of the conduct of elected Members have undergone many changes over recent years.
- 1.2 The first National Code of Conduct for local government was published in 1975 following the report of the Redcliffe Maude Committee. It was then updated and given statutory force (through the Local Government & Housing Act 1989 (LGHA89)) following the report of the Widdicombe Committee in the form of a National Code of Conduct in 1990 (1991 for Town/Parish Councils).
- 1.3 Additionally, the LGHA89 also required the maintenance of a Register of Interests.
- 1.4 This updated arrangement broadly subsisted from 1990-2000<sup>1</sup> when a new ethical framework and revised Model Code of Conduct was introduced with a duty placed on Members to comply<sup>23</sup>. The Code had mandatory provisions and could have optional ones under local discretion.
- 1.5 Principal authorities were required to establish standards committees to oversee the Code (for themselves and town/parish councils in their area). A Standards Board for England was also created with wide ranging powers to deal with the most extreme cases of Member misconduct (such as bullying, harassment and victimisation) including suspension and removal from office.

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<sup>1</sup> Following the White Paper 'Modern Local Government, in touch with the people'

<sup>2</sup> Local Government Act 2000

<sup>3</sup> When acting as a councillor (see Livingstone case [2006] EWHC 2533 (Admin))

- 1.6 Returning to the Model Code a review in 2005 by the Graham Report led to the 'Strong and Prosperous Communities' White Paper in 2006 and a revised/new Code which then subsisted from 2007-12.
- 1.7 Then, following the Localism Act 2011 and notwithstanding some concerns of the Committee on Standards in Public Life the current regime was introduced which abolished
- a. the Standards Board for England;
  - b. the Model Code of Conduct;
  - c. Standards Committees; and
  - d. All significant sanctions for misconduct (ie suspension, removal from office and disqualification).
- 1.8 In their place provision was made for legislation such that 'public life at the local government level does not fall below a minimum level'<sup>4</sup>. As a result the previous sanctions and safeguards were replaced with a 'duty' to promote and maintain high standards and adopt a code (but not a national Model Code) consistent with the Nolan Principles <sup>5</sup>. The 2011 Act also identified interests which required disclosure<sup>6</sup>.

## **2. ACTIONS**

- 2.1 In 2019 the Committee on Standards in Public Life<sup>7</sup> (at the request of Prime Minister Teresa May previously) made a further report
- [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)
- 2.2 It identified a range of deficiencies in the regime and made a series of recommendations and improvements which included (as regards a code)
- Local authorities are currently required to have in place a code of conduct of their choosing which outlines the behaviour required of councillors. There is considerable*

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<sup>4</sup> [2013] EWHC 4102 (Admin)

<sup>5</sup> Named after the first Chairman of the Committee on Standards in Public Life

<sup>66</sup> Only a failure to comply with these requirements can now lead to a significant sanction for misconduct although it is understood in the first 5 years of the arrangement there was only one prosecution in England

<sup>7</sup> CSPL

*variation in the length, quality and clarity of codes of conduct. This creates confusion among members of the public, and among councillors who represent more than one tier of local government. Many codes of conduct fail to address adequately important areas of behaviour such as social media use and bullying and harassment. An updated model code of conduct should therefore be available to local authorities in order to enhance the consistency and quality of local authority codes.*

- 2.3 However, it should be noted Government has not responded fully on the report – for information the Executive Summary is appended (appendix 1 refers).
- 2.4 The Local Government Association (LGA) Model Code of Member Conduct has been developed by the LGA to address this particular point (see also recommendation 1 of the report above) <https://www.local.gov.uk/sites/default/files/documents/LGA%20Model%20Member%20Code%20of%20Conduct.pdf> . This is significant for this Council because it is a consultation document which whilst prepared for a principal authority audience recognises:
- The matter of standards and conduct is important for all authorities;
  - It is possible, indeed probable, that at some point this Council may be required to adopt the code applying to principal Councils (of which this consultation will likely be the basis).
- 2.5 From a sector perspective an obvious significant omission/difference from the report of the CSPL is a recommendation to/support for a meaningful sanction for serious misconduct. Whereas the CSPL recommended the ability to suspend councillors for up to 6 months without allowances for the most serious offences the LGA report suggests only suspension from serving on a committee(s) (ie not Council) for up to 2 months.

- 2.6 A copy of the accompanying LGA questionnaire is appended (Appendix 2 refers)  
[https://research.local.gov.uk/CP/File.php?F=F\\_4VqpgTHFdT6yDp\\_b](https://research.local.gov.uk/CP/File.php?F=F_4VqpgTHFdT6yDp_b) should the Council wish to comment in detail on any or all of the points.
- 2.7 However, as a minimum the Committee and Council may wish to consider:
- a) Welcoming the consultation on a draft Model Member Code of Conduct from the LGA, whilst observing
  - b) The recommended sanctions for serious misconduct are inadequate, and that the LGA be invited to canvass Government to adopt the provisions as recommended by the CSPL
  - c) Adding any other comments/suggestions (such as whether a model code could/should specifically address in more detail use of digital mediums) as to the suggested content and form of a Model Code;
  - d) Copy its response to our sector body, the National Association of Local Councils.

**CARL HEARN  
TOWN CLERK  
JULY 2020  
TAVISTOCK TOWN COUNCIL**