

Question	MO observation/comments	Committee comments
<p>Are you...</p> <ul style="list-style-type: none"> • A Councillor • An officer • Answering on behalf of a whole Council (Please provide council name below) • Other (please specify) 	<p>Proposed answer:- Answering on behalf of a whole Council (Telford and Wrekin Council)</p>	
<p>Please indicate your council type</p> <ul style="list-style-type: none"> • Community/Neighbourhood/Parish/Town • District/Borough • County • Metropolitan/Unitary/London Borough • Other (please specify) 	<p>Proposed answer:- Metropolitan/Unitary/London Borough</p>	
<p>Application of the Code Under the Localism Act 2012, the Code of Conduct applies to councillors only when they are acting in their capacity as a member. The LGA believes that because councillors are elected by the public and widely recognised by the public, it makes sense for them to continue to model these behaviours when they are making public comment, are identifying as a councillor and when it would be reasonable for the public to identify them as acting or speaking as a councillor. The Committee on Standards in Public Life supported this approach in their report into Local Government Ethical Standards. Whilst the LGA is waiting for Government's response to these recommendations the option has been added in square brackets as it would need changes in legislation</p>	<p>This reflects the comments made by the CSPL.</p> <p>As an observation, many Standards complaints now arise as a result of social media activity on the part of councillors even where such activity may strictly be carried out in a personal capacity. It is apparent that many members of the public are aware that a person is an elected member even if their social media profile does not indicate this to be the case.</p> <p>Some complaints are dismissed by the MO and Independent Person due to</p>	

	<p>the fact that social media activity was undertaken by the individual rather than the elected member.</p> <p>Given that the CSPL report was partly driven by a perception that ethical standards should be driven higher, it seems sensible to extend the Code to the circumstances suggested by the LGA.</p>	
<p>Q1. 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?</p> <ul style="list-style-type: none"> • To a great extent • To a moderate extent • To a small extent • Not at all • Don't know/prefer not to say <p>Q1a. If you would like to elaborate on your answer, please do so here:-</p>	<p>Suggested response:-</p> <p>Q1. To a great extent</p> <p>Q1a. It seems reasonable to suggest that members should be bound by the Code when they are publicly acting as and identifying as a councillor including when representing the council on official business. The wording of “giving the impression that they are acting as a councillor” leaves room for interpretation and places the burden on the IP/MO to decide if a councillor is “giving the impression” that they are acting as a councillor. This differs very little from the current position where it is</p>	

	<p>open to the IP/MO to reach a conclusion around whether or not the member was acting in their capacity as an elected councillor. It would provide greater certainty if this wording was altered to indicate that the Code 'caught' members where a member of the public felt that they were acting in their council capacity and that there was a rebuttable presumption that a member was acting in their official capacity on social media unless they stated otherwise with wording such as "personal views only and not representative of X Council's position".</p>	
<p>Q2. Is it sufficiently clear which parts of the Model Code are legal requirements, which are obligations and which are guidance?</p> <ul style="list-style-type: none"> • Yes • No • Don't know 	<p>Although the Model Code makes reference to some legislative requirements, it does not appear to be written in a manner that a lay person would necessarily be able to make the distinction between guidance, obligations and legal requirements. This could lead to confusion for those who wish to make a complaint and,</p>	

	<p>potentially, result in misinformed complaints being made.</p> <p>Proposed response:-</p> <p>No</p>	
<p>Q3. Do you prefer the use of the personal tense, as used in the Code, or would you prefer the passive tense?</p> <ul style="list-style-type: none"> • Personal tense (“I will”) • Passive tense (“Councillors should”) • No preference 	<p>If the authority intends to require all councillors to sign a declaration of commitment to the Code, the personal tense is appropriate and works well. However, for members of the public referring to the Code of Conduct, and for inclusion within the Council’s Constitution, the passive tense is more appropriate.</p> <p>Proposed response:-</p> <p>Do not respond to question 3 and include text as above in response to question 17.</p>	
<p>Specific obligations</p> <p>The Code lists <u>12 specific obligations</u> – these set out a minimum standard councillors are asked to adhere to.</p> <p>Each obligation or group of obligations is put into a wider context to explain why that particular obligation is important.</p>		

<p>Q4. To what extent do you support the 12 specific obligations (set out below)?</p> <ul style="list-style-type: none"> • To a great extent • To a moderate extent • To a small extent • Not at all • Don't know/Prefer not to say <ol style="list-style-type: none"> 1. Treating other councillors and members of the public with civility 2. Treating council employees, employees and representatives of partner organisations and those volunteering for the councils with civility and respecting the role that they play 3. Not bullying or harassing any person 4. Not compromising, or attempting to compromise, the impartiality of anyone who works for, or on behalf of, the council 5. 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 6. Not preventing anyone getting information that they are entitled to by law 7. Not bringing my role or council into disrepute 	<p>See response to question 5 for more information and explanation as to proposed responses.</p> <p>Proposed response: To a moderate extent</p> <p>To a moderate extent</p> <p>To a great extent To a great extent</p> <p>To a great extent</p> <p>To a great extent</p> <p>To a great extent</p>	
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<p>8. Not using, or attempting to use, my position improperly to the advantage or disadvantage of myself or anyone else</p> <p>9. Not misusing council resources</p> <p>10. Registering and declaring my interests</p> <p>11. 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</p> <p>12. Registering with the monitoring officer any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt</p>	<p>To a great extent</p> <p>To a great extent</p> <p>To a great extent</p> <p>To a great extent</p> <p>To a moderate extent</p>	
<p>Q5. 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</p>	<p>Proposed response:-</p> <p>Obligation 1 – given that the purpose of the Model Code and the theme of the CSPL report in January 2019 was to raise ethical standards within local government, ‘civility’ seems a fairly low burden to be met. This does not even seem to reach the threshold of mutual respect. One can be disrespectful to someone in a civil manner and there is a risk that the code would not address repeated instances of disrespect.</p>	

	<p>Obligation 2 – as above regarding the threshold of civility.</p> <p>Obligation 12 – This authority welcomes the lower cap on hospitality and gifts compared with that suggested by CSPL, however, the draft Code is silent on cumulative value of gifts from one party and would welcome some provision to address this point also.</p>	
<p>Q6. 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?</p> <ul style="list-style-type: none"> • As a list • Each specific obligation followed by its relevant guidance • No preference 	<p>The guidance following each obligation seems a sensible approach and, for a layperson, may be a logical manner in which to set out the meaning of the Code. However, the current format of the Code (in two columns per page) can lead to confusion, especially for those people who are reliant upon digital screen readers due to visual impairment.</p> <p>Suggested response:- Each obligation followed by its relevant guidance but more detail regarding the layout of</p>	

	the Code to be added to the response to the final question	
<p>Q7. To what extent do you think the concept of ‘acting with civility’ is sufficiently clear?</p> <ul style="list-style-type: none"> • To a great extent • To a moderate extent • To a small extent • Not at all • Don’t know/prefer not to say <p>Q7a. If you would like to suggest an alternative phrase that captures the same meaning or would like to provide a comment on this concept, please do so here</p>	<p>Suggested response:- Q7. To a small extent</p> <p>Q7a. The dictionary definition of “civility” is <i>politeness or courtesy</i>. The dictionary definition of “respect” is <i>to have a good opinion of someone</i>. The nature of local government (and any party politics) is that there will be disagreements on complex issues. However, the way in which such disagreements are articulated can, and should, be with respect to those with whom an individual disagrees. Please see, also, response to question 5.</p>	
<p>Q8. To what extent do you think the concept of “bringing the council into disrepute” is sufficiently clear?</p> <ul style="list-style-type: none"> • To a great extent • To a moderate extent • To a small extent • Not at all 	<p>Proposed response:- Q8. To a small extent.</p>	

<ul style="list-style-type: none"> • Don't know/prefer not to say <p>Q8a. If you would like to suggest an alternative phrase that captures the same meaning or would like to provide a comment on this concept, please do so here.</p>	<p>Q8a. Experience suggests that members of the public find this concept confusing and frequently consider that expressing views which differ from one party or another is sufficient to bring the Council into disrepute/warrant a complaint. Additionally, the phrase introduces opportunity for inconsistent application of the Code across authorities as those charged with administering the Code will be responsible for interpreting whether or not a complaint is about something which brings the authority into disrepute. It is a very subjective test.</p>	
<p>Q9. To what extent do you support the definition of bullying and harassment used in the code in a local government context?</p> <ul style="list-style-type: none"> • To a great extent • To a moderate extent • To a small extent • Not at all • Don't know/prefer not to say <p>Q9a. If there are other definitions you would like to recommend, please provide them here</p>	<p>Suggested response:- Q9. To a moderate extent</p> <p>Q9a. It is recognised that the definition provided replicates, to a large extent, the wording</p>	

	<p>of the ACAS definition of bullying within the workplace. However, we consider that behaviour that, as a one-off, might be considered acceptable, can be considered bullying if it is repeated and/or persistent. For example, placing unreasonable demands on officers or expecting work to be undertaken outside of normal office hours. Additionally, the definition within the Code does not include sexual harassment and, whilst incidents of such nature are rare, it is important that the Code addresses this. This authority welcomes the additional information provided by the CSPL at page 34 of its report on what might amount to bullying behaviour; this, in our view, goes beyond the definition provided by the LGA. It is also considered reasonable that the definition includes reference to protection for those officers charged with statutory roles who may, at times, find that their roles bring them into conflict with Members eg.</p>	
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	Head of Paid Service, s.151 officer and Monitoring Officer.	
<p>Q.10 Is there sufficient reference to the use of social media?</p> <ul style="list-style-type: none"> • Yes • No • Don't know/prefer not to say <p>Q.10a. Should social media be covered in a separate code or integrated into the overall code of conduct?</p> <ul style="list-style-type: none"> • Separate code • Integrated into the code • Don't know/prefer not to say <p>Q.10b. If you would like to make any comments or suggestions in relation to how the use of social media is covered in the code please do so here</p>	<p>Proposed response:-</p> <p>Q.10 No</p> <p>Q.10a Separate code</p> <p>Q.10b Whilst it is considered that a separate code would be useful so that details of what is acceptable conduct on social media on the part of Members, it is the view of this authority that it would remain appropriate to retain an obligation within this model code of conduct to the requirement for members to comply with a separate social media code of conduct.</p>	
<p>Registration and declaration of interests The law at present requires, as a minimum, registration and declaration of 'Disclosable Pecuniary Interests' – that is matters which</p>	<p>The Code of Conduct for many authorities already goes beyond that set out in law</p>	

<p>appendix where the draft model code of conduct currently references it?</p> <ul style="list-style-type: none"> • In the main body of the code • In the appendix • Other (please specify) • Don't know/prefer not to say <p>Q.12a If you would like to make any comments or suggestions in relation to how the requirement to declare interests is covered in the code, please do so here</p>	<p>be as easy as possible to read. To this end, including Appendices that actually form part of the substantive requirements placed upon Members is unhelpful and, in some authorities, could lead to the appendices being excluded from the Code inadvertently.</p> <p>Many authorities extend interests wider than just those relating to spouse/partner (to include other relatives and friends). This is due to the perception of bias/predetermination. The suggested additions to the definition of interest aligns with this approach.</p> <p>Suggested response:- Q.12. In the main body of the code</p>	
<p>It is also suggested that more outside interests should be registered than is the current statutory minimum. These are set out in Table 2 of the Appendix and are designed to demonstrate to the community transparency about other bodies with which the councillor is engaged.</p> <p>Q.13 To what extent do you support the inclusion of these additional categories for registration?</p>	<p>These requirements broadly reflect the requirements of our declaration of interest form.</p> <p>Suggested response:- To a great extent to all</p>	

<ul style="list-style-type: none"> • To a great extent • To a moderate extent • To a small extent • Not at all • Don't know/Prefer not to say <p>Any organisation, association, society or party of which you are a member or in a position of general control or management and to which you are appointed or nominated by the council</p> <p>Any organisation, association, society or party that exercises functions of a public nature of which you are a member or in a position of general control or management</p> <p>Any organisation, association, society or party directed to charitable purposes</p> <p>Any organisation, association, society or party of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)</p> <p>Q.13a If you would like to propose additional or alternative categories for registration, please provide them here</p>		
<p>Q.14 To what extent do you support the proposed requirement that councillors do not accept significant gifts as set out in Obligation 11?</p> <ul style="list-style-type: none"> • To a great extent • To a moderate extent • To a small extent 	<p>Suggested response:- Q.14 To a great extent</p>	

<ul style="list-style-type: none"> • Not at all • Don't know/prefer not to say <p>Q.14a If you would like to elaborate on your answer please do so here.</p>		
<p>Q.15 The draft code proposes £25 as the threshold for registering gifts and hospitality. Is this an appropriate threshold?</p> <ul style="list-style-type: none"> • Yes • Yes, but the amount should be reviewed annually with the code's review • No, it should be lower (please specify) • No, it should be higher (please specify) • Don't know/prefer not to say 	<p>The CSPL suggested imposing a limit of £50 which is aligned with the financial limit for gifts or donations for election campaigns. TWC's policy has, for some years, been subject to a limit of £25 and, at the last Standards Committee meeting, it was felt that this should remain the position. The LGA Model Code of Conduct suggests a limit of £25 but does not account for any cumulative gifts from one source.</p> <p>Suggested response to be added to Q.17 response:- It would be welcomed if there was also express provision for registration of gifts from one source with a cumulative value of £25 or more.</p>	
<p>Q.16 the LGA 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.</p> <ul style="list-style-type: none"> • Regularly updated examples of case law 	<p>Member's views are sought on which would be most helpful.</p>	

<ul style="list-style-type: none"> • Explanatory guidance on the code • Case studies and examples of good practice • Supplementary guidance that focuses on specific areas, eg. social media • Improvement support materials, such as training and e-learning packages <p>Q.16a If you would like to suggest any other accompanying guidance, please do so here</p>		
<p>Q.17 If you would like to make any further comments about the code, please do so here</p>	<p>Suggested response:-</p> <ul style="list-style-type: none"> • TWC would welcome provision which required Members to sign a commitment to the Code upon commencement of each term of office as well as for each authority that they may be a member of, if dual or triple-hatted. • It would be useful if the Code included provision for Code of Conduct training to be a mandatory requirement for all Members both on appointment to their initial term with regular refresher 	

	<p>training (at least upon re-election).</p> <ul style="list-style-type: none">• In response to question 3, If the authority intends to require all councillors to sign a declaration of commitment to the Code, the personal tense is appropriate and works well. However, for members of the public referring to the Code of Conduct, and for inclusion within the Council's Constitution, the passive tense is more appropriate.• With regards to question 6, the guidance following each obligation seems a sensible approach and, for a layperson, may be a logical manner in which to set out the meaning of the Code. However, as an inclusive Council, TWC would like to make the point that the current format of the Code (in	
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	<p>two columns per page) can lead to confusion, especially for those people who are reliant upon digital screen readers due to visual impairment.</p> <ul style="list-style-type: none">• Finally, in relation to gifts and hospitality, it would be welcomed if there was also express provision for registration of gifts from one source with a cumulative value of £25 or more.	
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