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**Report to:** Governance and Audit Committee

**Date:** 18 March 2021

**Subject:** Ethical Standards for MCA

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## 1. Purpose of this report

- 1.1. To invite the Committee to review the attached draft Members' Code of Conduct, which reflects the Local Government Association's (LGA) new model code of conduct and proposes amendments to make the Code fit for purpose for the Mayor coming into office.
- 1.2. To ask that the Committee recommends that the Combined Authority adopt the proposed revised code, to be of effect when the Mayor comes into office.

## 2. Information

- 2.1. The Committee is aware that the purpose of a Code of Conduct for Members is to protect members, officers, the public and local government generally by setting out principles of conduct expected of all members. This helps create and maintain public confidence in the role of members and local government and promotes the seven principles of public life (the Nolan Principles).
- 2.2. In January 2019, the Committee on Standards in Public Life (CSPL) produced a report into ethical standards in local government accompanied by a series of best practice guidance and recommendations. The best practice guidance was reported to this Committee in July 2019, and some minor amendments consequently made by the Head of Legal and Governance Services to both the Code of Conduct and the Procedure for Considering Complaints.
- 2.3. The CSPL recommended that the LGA should create a model code of conduct which would operate nationally and across all tiers of local government. The LGA therefore produced a draft model which was the subject of extensive consultation during the summer of 2020. The draft was

revised to reflect the impact of the COVID-19 pandemic, and the resulting increased frequency of online communications. The LGA published the final model code in December 2020<sup>1</sup>.

2.4. A key point to note is that the **underpinning legislation** in respect of conduct issues **remains unchanged**, and therefore the existing requirements in relation to disclosable pecuniary interests are not affected by the proposed changes.

2.5. The main differences between the model code and the Combined Authority's current Code of Conduct are:

- The creation of a **new category of registrable interest**, namely **personal interests**. These are not disclosable pecuniary interests; the criminal sanctions that apply to any failure to register disclosable pecuniary interests will not apply to personal interests,
- The model code explicitly applies to Members **giving the impression** that they are acting in their official capacity (the current Code only applies where a Member **is** acting in their official capacity),
- The model code expressly states that it applies to Members' activities in **all forms of communication**,
- There is an express requirement to **promote equality and not discriminate**,
- The obligation to not bring the role or the Combined Authority into **disrepute** has been reinstated,
- Explicit reference is now made to a **Member's use of position and resources**,
- Requirements to:
  - undertake code of conduct training,
  - co-operate in any investigation,
  - not intimidate anyone administering an investigation, and
  - comply with any sanction imposed upon a finding of a breach of the Codeare now explicitly included in the Code.

2.6. The election of a Mayor will also mean that for the first time, formal decisions will (in relation to Mayoral Functions) be taken by a Member (the Mayor) acting alone (as opposed to acting collectively as a member of the Combined Authority or a committee). The Mayor may also delegate some functions to individual members of the Combined Authority. Accordingly, the proposed Code of Conduct now reflects how an individual decision maker will promote the ethical standards and principles of conduct which apply to Members in meetings.

2.7. It is proposed to retain some aspects of the current Code which are not in the model Code, where these are considered to complement or add to the model Code, for example by referencing local protocols. The draft Code now proposed is set out in Appendix 1 to this report, and the new provisions

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<sup>1</sup> <https://www.local.gov.uk/local-government-association-model-councillor-code-conduct-2020-0>

(that is, those for which the current Code has no directly similar or equivalent provision, and which are taken from the model Code) are highlighted in blue.

2.8. A separate report on this agenda outlines governance arrangements in relation to Police and Crime Commissioner (PCC) Functions. In relation to ethical standards, existing provisions applying to the PCC are modified by statute so that in relation to PCC Functions, complaints concerning the conduct of the Mayor or a Deputy Mayor for Policing and Crime who is member of the Combined Authority will be passed to the Combined Authority's Monitoring Officer to deal with under the Code of Conduct. The Monitoring Officer shall as soon as practicable inform the Police and Crime Panel of the outcome of the complaint. Serious complaints and conduct matters must be passed to the Director General of the Independent Office for Police and Conducts (IOPC). Minor technical modifications to the Code and/or complaints procedures may therefore be required in respect of conduct and complaints handling, and any interplay with the Police and Crime Panel, and these will be complete for the April meeting of the Combined Authority.

2.9. The Committee is invited to recommend that the Combined Authority adopt the revised Code of Conduct as set out at Appendix 1, at its April meeting, subject to any further modifications to reflect the transfer of PCC Functions to the Combined Authority, and to be of effect from the Mayor's term of office.

### **3. Financial implications**

3.1. None arising directly from this report.

### **4. Legal implications**

4.1. The Government has yet to issue its formal response to the CSPL review, and so there has been **no change** to the underlying legislation.

4.2. The principal statutory provisions relating to standards of conduct for Members remain those contained in the Localism Act 2011. Section 27(1) of the 2011 Act provides that authorities must promote and maintain high standards of conduct by Members and Co-opted Members of the authority.

4.3. Sections 27 and 28 of the Localism Act 2011 require an authority to adopt a Code of Conduct consistent with the Nolan principles of good governance and to appoint at least one Independent Person whose views must be sought and considered before the authority makes any decision about an alleged breach of the Code that has been investigated.

4.4. There is no obligation to adopt a particular model of the Code of Conduct. The statutory duty is to adopt a code of conduct which complies with the statutory requirements referred to in paragraph 4.3.

### **5. Staffing implications**

5.1. None arising directly from this report.

## **6. External Consultees**

6.1. Of our partner councils, it is understood that the majority are proceeding to adopt the LGA model or a variation thereof, given the changes provide helpful clarification and examples rather than substantive changes. Additionally, several other mayoral combined authorities have indicated their intention to adopt the same.

## **7. Recommendations**

7.1. That the Committee recommend the Combined Authority adopts the attached Code of Conduct as drafted at Appendix 1, with effect from the 10 May 2021 when the Mayor comes into office, subject to any further amendments to reflect the transfer of PCC Functions to the Combined Authority.

## **8. Background Documents**

None

## **9. Appendices**

Appendix 1 –Draft Members' Code of Conduct.