

GEDLING BOROUGH COUNCIL CODE OF CONDUCT REVIEW
WORKING GROUP MEETING 1ST JUNE 2021

In attendance:

Councillor Boyle, Councillor Murray, Rosalie Hawkes, Francesca Whyley

Apologies from John Baggaley

Members considered a comparison between the Local Government Association Model Code of Conduct and Gedling Borough Council's Code of Conduct, the details of which are summarised in the table below.

Gedling Code	Model Code
<ul style="list-style-type: none"> • Written as an instruction to Councillors "You must, you should" 	<ul style="list-style-type: none"> • Written in the first person "I act, I treat" etc.
<ul style="list-style-type: none"> • Introduction is very clear on expectations, strong words setting out lack of tolerance for misconduct, expectation of high standards 	<ul style="list-style-type: none"> • "Purpose of the Code" – this paragraph is much softer in tone, references need for support and training prior to action being taken under the Code.
<ul style="list-style-type: none"> • Interpretation section no definition of co-opted member 	<ul style="list-style-type: none"> • Definition section provides co-opted member definition and includes Mayor.
<ul style="list-style-type: none"> • "Scope" sets out when the Code applies. Fairly brief but clear that it only applies when acting in official capacity. 	<ul style="list-style-type: none"> • "Application of the Code of Conduct" – definition of official capacity not as clear but does include reference to communications which may be helpful"
<ul style="list-style-type: none"> • "Seven Principles of Public Life" – instructs Councillors to follow 7 principles and gives explanation of each one. 	<ul style="list-style-type: none"> • "General Principles of Councillor Conduct" – the principles are a list of statements/pledges that a Councillor is upholding principles i.e. "I act with integrity and honesty"
<ul style="list-style-type: none"> • "General obligations" – Respect – Similar definitions but more general rather than specific list of who should be respected. • Guidance notes on the code aren't included within the document except into relation to bullying and harassment. 	<ul style="list-style-type: none"> • "General Conduct" – Respect – more specific in terms of who should be treated with respect and explanatory note within the code describing what respect means and how to deal with people who are not respectful to you.

<ul style="list-style-type: none"> • Bullying guidance in appendix references types of bullying. • Harassment is also separately defined in Appendix 1 to the Code • Reference to equalities is not do anything that may cause the Council to breach the Equality Act 2010 	<ul style="list-style-type: none"> • I do not bully any person – definitions of bullying given as part of this section in line with ACAS. • Specific reference to harassment - again definition provided. • Requirement to promote equalities and not to unlawfully discriminate. Wider than the Council's reference and details around protected characteristics provided. Whether obligation to promote equalities is necessary. • Intimidation in relation to code of conduct complaints and investigations is covered separately in this code.
<ul style="list-style-type: none"> • Impartiality is referenced under bullying/intimidation section in relation to officers of the Council. 	<ul style="list-style-type: none"> • Impartiality has more emphasis and clear explanation as to what that means/expectations in respect of officers.
<ul style="list-style-type: none"> • Confidential information – largely matches Model Code but 2 extra points in model code. 	<ul style="list-style-type: none"> • Confidentiality matches Council Code with the addition of a requirement to consult the MO before disclosing confidential information. Too burdensome? Also 4.2 is additional potentially useful using information gained for own advancement. • Guidance is quite slim and could be misinterpreted.
<ul style="list-style-type: none"> • Disrepute the same 	<ul style="list-style-type: none"> • Disrepute the same but guidance
<ul style="list-style-type: none"> • Use of position and resources. Codes match in relation to use of position. • Resource use, Gedling goes further specifically referencing the requirement to comply with legal obligations etc. which is not referenced in the model code. 	<ul style="list-style-type: none"> • Use of position matches Gedling but with guidance. • Resource use includes reference to facilities, second part of 7.2 rather wordy and open to interpretation. No reference to complying with policies, legal obligations etc.
<ul style="list-style-type: none"> • Sections 11-13 are not included in the model code, although there is reference to Leadership in the Application of the Code section of the Model Code. 11-13 are positive requirements. They do support the Nolan Principles further 	<ul style="list-style-type: none"> • No directly comparative sections in the model code, but they do echo the Nolan Principles partly.

<p>but are helpful rules in the Code that aren't specifically addressed in the Model Code.</p>	
<ul style="list-style-type: none"> Intimidation of those investigating code complaints is referenced in 2(c) (iii) and paras 8 and 9 of the Gedling Code reflect requirement to comply with investigation and not make "trivial or malicious allegations" don't reference training and complying with Sanctions. 	<ul style="list-style-type: none"> Rule 8 specifically relates to co-operation and compliance with the code. It makes undertaking training mandatory, requirement to co-operate with a code investigation and follow any sanctions and reference to not intimidating those involved with an investigation.
<ul style="list-style-type: none"> The requirements in relation to disclosure of interests and registering is set out in more detail after types of interests are defined. 	<ul style="list-style-type: none"> Rule 9 the requirement to register and disclose interests is included in this part of the Code. Types of interest are in the Annex to the code as is details around offences etc.
<ul style="list-style-type: none"> Gifts and hospitality are referenced at the end of the Code and the requirement to register them and £50 requirement 	<ul style="list-style-type: none"> Rule 10 – Gifts and hospitality is more detailed and discourages gifts at all, 10.1 is helpful perhaps to include.
<ul style="list-style-type: none"> Disclosable Pecuniary Interests - listed 	<ul style="list-style-type: none"> DPIs in table 1 at Appendix 2
<ul style="list-style-type: none"> Non-pecuniary interests set out, there are only 2 categories of interest DPIs and non-pecuniary, the non-pecuniary also covers non DPI matters in relation to land and unpaid employment. 	<ul style="list-style-type: none"> Non Registerable Interests referred to and Other registerable Interests - so essentially 3 categories of interest. Other registerable interests relate to business affecting a body of which you are a member or in a position of control and appointed by the Council, also bodies exercising functions of public nature etc., set out in a separate table. Non-registerable Interests defined as affecting your financial interests or wellbeing or family member included in Appendices. Slightly confused layout.
<ul style="list-style-type: none"> Nolan principles listed at the start of the Code. 	<ul style="list-style-type: none"> Appendix A sets out the Nolan Principles as they are set out in Gedling Code at the beginning definitions slightly different.
<ul style="list-style-type: none"> Sensitive Interests set out in paras 19 of the Gedling Code 	<ul style="list-style-type: none"> Mentioned in the Appendix B

Members then discussed the comparisons as set out below:

- View on whether code written in the first person is preferred.

Conclusion

Preference was not to move to a Code written in the first person. The Gedling Code, written more as a set of rules/instructions you must, you shall was clearer for Members and the public and more compelling.

- Whether Nolan principles are adequately covered in the Gedling Code.

Conclusion

The Model Code references the Nolan principles as both declarations “I act with...” then includes the principles in an appendix. Members felt this was a little repetitive, having them set out as clear principles as in the Gedling Code with explanatory sentence underneath was more concise and clearer. Any restatement of the principles dilutes their importance.

- Whether more guidance should be included within the Gedling Code.

Conclusion

The guidance in the model Code accompanies each section. The Gedling Code does have an appendix referencing bullying and harassment and this is cross referenced in the Code itself. Whilst it was felt that a guidance document may be helpful to support the Gedling Code, it shouldn't form part of the Code itself as it makes the Code lengthy and more difficult to digest. An additional guidance document published on the website and circulated to members may be useful to work up but not included in the Code itself.

- Whether the extra parts in the Model Code in relation to conduct investigations, gifts and hospitality, confidential information, acting in capacity, should be added to the Gedling Code or any other changes should be made to the Gedling Code reflecting on the table above.

Conclusion

Generally members preferred the Gedling Code. The introduction was clearer in terms of expectations, the Scope section sufficed in terms of “acting in capacity” and any reference to social media and other communications when looking at capacity could form part of guidance documents.

The requirement around attending Code training in the Model Code and the requirement to comply with outcome of Code investigations was considered too much, not least because if sanctions aren't followed after an investigation, this would trigger another investigation

by the MO and the matter should perhaps be considered with group leaders. Training is provided and members understand the need to attend.

Gifts and hospitality in the Gedling Code is considered satisfactory. Committee do review Gifts and Hospitality annually and members are aware of the rules, Model Code perhaps goes too far.

In relation to confidential information, the requirement to seek MO approval for releasing information in the Model Code is considered too much and would create an unnecessary burden. If in doubt Members would seek advice in any event.

- Whether parts in the Gedling Code (11-13) should be removed.

Conclusion

Members agreed they were helpful paragraphs and something that should remain as they reflected the Member's responsibilities to constituents and were useful guides as to conduct.

- How interests should be included in the Code (layout appendix or not)
- Whether Non-pecuniary interests in the Gedling Code are excessive.
- Whether distinction between non-registerable and other interests should be included in the Gedling Code.

Conclusions

Interests were taken together. Members felt the layout in the Model Code was confusing, referencing back to Code and appendix and tables of interests, the layout of interest in the Gedling Code followed by the disclosure requirements was a better format and was clearer.

Members preferred the DPI and Non-pecuniary split rather than the 3 categories in the Model Code. In any guidance document it may be helpful to provide clarification around non pecuniary membership of bodies e.g. RSPB? However generally the Gedling Code and layout of interests was something Members found helpful and clear.

Recommendations

Members preferred the Gedling Code of Conduct generally and felt that following the review in 2019, the Code remained fit for purpose. The working group proposed the following recommendations to Standards Committee:

- Having reviewed the Gedling Code of Conduct and compared and contrasted with the LGA Model Code, the Working Group proposes that the Gedling Code of Conduct remain unchanged.

- The Working Group did consider that a guidance document for members and the public in relation to the Code may be helpful and would recommend that the Monitoring Officer prepare such a document for consideration by the Committee at a future meeting.