

# Minutes

## Corporate Governance Group

11<sup>th</sup> August 2020



### Present

Councillors	Present	Councillors	Present
P Euesden	Yes	R van Dulken (Chairman)	Yes
D Hume	Apologies	D Wallace	Yes
H Johnson (Vice-Chairman)	Yes	T Walsh	Yes
D Mann	Yes	Mrs L Walters	Yes
Miss V Santomauro	Apologies		

### **In attendance:**

Saleem Chughtai	Governance Lawyer
Kim Cole	Head of Governance
Jessica Mann	Governance and Members Officer
Chloe Waight	Governance Business Officer
Emma Wisbey	Governance and Members Manager

### 39 **MINUTES**

**DECISION:** The Minutes of the meeting of the Corporate Governance Group held on 23<sup>rd</sup> July 2020 were approved as a correct record.

### 40 **PUBLIC QUESTION TIME**

**INFORMATION:** There were no questions asked, or statements made.

### 41 **DECLARATIONS OF INTEREST**

**INFORMATION:** There were no interests declared.

### 42 **LOCAL GOVERNMENT ASSOCIATION DRAFT MODEL CODE OF CONDUCT - CONSULTATION RESPONSE**

**INFORMATION:** Members were informed that all Councils were required to have a local Member Code of Conduct. Braintree District Council (the Council) adopted their Members Code of Conduct (the Code) on 11<sup>th</sup> June 2012, with revisions in February 2020, and it formed part of the Council's Constitution. The same Code had been adopted by the Council's 52 Parishes and two Town Councils that were situated within the District.

In January 2019, the Committee on Standards in Public Life (the SPL) published their report into Local Government Ethical Standards. The SPL considered that robust standards arrangements were needed to safeguard local democracy, maintain high standards of conduct, and to protect ethical practice in Local Government. The SPL made 26 recommendations to Government for the revision of the current provisions. In addition to the recommendations to Government, their report also set out a list of 15 best practice measures on the basis of observations of the arrangements in place in Local Authorities. A key recommendation was that the Local Government Association (LGA) produced a Model Code of Conduct in consultation with Councillors and other relevant stakeholders.

In the SPL's review of principle Authorities' codes of conduct, they found that there was considerable variation between Authority's codes in terms of length, breath, clarity and detail. The SPL were informed by Authorities that the variations between the codes created confusion, particularly for those Members that were dual-hatted, and amongst members of the public over what was required of different Councillors across different areas and tiers of Local Government.

The LGA held an event on Civility in Public Life with a range of stakeholders at the end of 2019, and three consultation workshops at the start of 2020. Their consultants examined examples of good practice, both in Local Government and other professions, and the outcome of which resulted in a recommendation that a model code of conduct would create consistency across England and reflect the common expectations of the public, regardless of geography or tier. Accordingly, the LGA had launched a consultation on the Draft Model Code of Conduct (Draft Code), with the closing date for responses on 17<sup>th</sup> August 2020.

Members of the Corporate Governance Group were therefore asked to consider the Draft Model Code of Conduct and the consultation questions, to determine whether the Council would respond to the consultation and if so, what the appropriate response should be. In order to assist Members, a comparison was carried out between the Council's Code of Conduct and the Draft Code; it was advised that the Draft Code was similar to the Council's Current code and remained centered around the seven principles of public life. Feedback from the LGA workshop had highlighted that the Code should be rules-based as this made it easier to apply, and that short and succinct content was preferred; however, the need to balance the promotion of positive behavior and the setting of boundaries was recognised.

Members were informed that participation in the LGA Consultation would provide the Council with an opportunity to put forward its views on the Draft Code and for these to be taken into consideration by the LGA at an early stage. Furthermore, if any of the Council's points were to be adopted, there would be a limited need to undertake local modifications, and would form part of the base Draft Code to be applicable to neighbouring Local Authorities. An all Member briefing was circulated on 29<sup>th</sup> July 2020; the briefing sought input into the draft Code and the consultation questions. Members were asked to provide their feedback by no later than 7<sup>th</sup> August 2020; to date, two Members had responded to the briefing.

Following the report, the Chairman proposed that Members discussed each question submitted as part of the consultation on an individual basis and gave consideration as to an appropriate response, should a response be deemed necessary. Where a response was to be given, agreement was to be sought from all Members present. Subject to the agreement of Members, the Monitoring Officer would subsequently submit the Council's formal response to the LGA Consultation by the closing date of 17<sup>th</sup> August 2020.

**DECISION:** Members:-

1. Gave consideration to the LGA Consultation and determined that the Council would provide a response to the consultation questions;
2. Agreed the responses to the consultation questions, where a response was to be sent, and;
3. Agreed that the Monitoring Officer should submit the Council's formal response to the LGA Consultation by the closing date on 17<sup>th</sup> August 2020.

**REASON FOR DECISION:** To provide the Council with the opportunity to put forward its views on the Draft Code and for these to be taken into consideration by the LGA at an early stage.

43 **CODE OF CONDUCT COMPLAINT PROCEDURE**

**INFORMATION:** The Council's Monitoring Officer, Kim Cole, advised Members of the need to review and revise the organisation's procedures in respect of Code of Conduct Complaints. There were currently four documents that related to the Council's Code of Conduct Complaints procedures; these consisted of a flowchart, an assessment criteria, a process document and a complaints form. The Monitoring Officer believed that there was value in revisiting these documents in order to identify areas that could be improved and thus make the overall procedure in respect of complaints more transparent and easier to understand for members of the public. For example, the establishment of a clear, start-to-finish process for those wishing to submit complaints which stipulated rules such as those surrounding the timescales for engaging with complainants, and when decisions would be made. It was recognised that with the current procedures, a number of the complaints that the Council received were escalated, often due to a lack of understanding of the process by the independent party who could become frustrated for what they perceived to be a delayed response to the issues or concerns they had raised.

The Monitoring Officer subsequently proposed to bring the Council's current policy documents in respect of Code of Conduct complaints to the next meeting of the Corporate Governance Group on 24<sup>th</sup> October 2020. This would allow the Monitoring Officer to explain the current complaints procedure in more detail. In advance of the next meeting of the Group, the Monitoring Officer also agreed to look at the rate of complaints that the Council had received as part of the current annual trend, and to report this information back to Members accordingly.

The meeting commenced at 2.00pm and closed at 3.57pm.

Councillor R van Dulken  
(Chairman)

## **Braintree District Council Consultation Response**

### **LGA: Draft Model Member Code of Conduct**

#### **QA. Are you...**

- Answering on behalf of a whole council (Please provide council name below):

Braintree District Council

#### **QB. Please indicate your council type**

- District/Borough

### **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.

#### **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?**

- To a great extent

#### **Q1a. If you would like to elaborate on your answer please do so here:**

N/A

#### **Q2. Is it sufficiently clear which parts of the Model Code are legal requirements, which are obligations, and which are guidance?**

- No

#### **Q3. Do you prefer the use of the personal tense, as used in the Code, or would you prefer the passive tense?**

- No preference

### **Specific obligations**

The Code lists 12 specific obligations – these set out a minimum standard councillors are asked to adhere to.

Each obligation or group of obligations is put into a wider context to explain why that particular obligation is important.

**Q4. To what extent do you support the 12 specific obligations?**

1. Treating other councillors and members of the public with civility.	To a great extent
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.	To a great extent
3. Not bullying or harassing any person.	To a great extent
4. Not compromising, or attempting to compromise, the impartiality of anyone who works for, or on behalf of, the council.	To a great extent
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.	To a great extent
6. Not preventing anyone getting information that they are entitled to by law.	To a great extent
7. Not bringing my role or council into disrepute.	To a great extent
8. Not using, or attempting to use, my position improperly to the advantage or disadvantage of myself or anyone else.	To a great extent
9. Not misusing council resources.	To a great extent
10. Registering and declaring my interests.	To a great extent
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.	To a great extent
12. Registering with the monitoring officer any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt.	To a great extent

**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:**

- Treating Councillors and Members of the Public with Civility – should also include the respect.
- The obligations should allow for the robust exchanging of political views.
- Additional Obligation: if there is evidence of a clear and consistent pattern of repeated complaints against any individual Councillor, then consideration should be given by the Council to temporarily suspending that Councillor while the matter is investigated.
- Additional Obligation: if there is significant evidence of an overall or corporate culture of bullying or harassment or other breach of the principles of public life (the Nolan Principles) in any Council. Then consideration should be given to it being investigated by an independent body external to the Council.

**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?**

- Each specific obligation followed by its relevant guidance

**Q7. To what extent do you think the concept of ‘acting with civility’ is sufficiently clear?**

- To a moderate extent

**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:**

- There is a need for both Civility and Respect, and these both need to be captured within the Code.

**Q8. To what extent do you think the concept of ‘bringing the council into disrepute’ is sufficiently clear?**

- To a moderate extent

**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:**

- It would be helpful to have a definition or guidance around this terminology to provide Members and the Public with certainty over what this would capture.

**Q9. To what extent do you support the definition of bullying and harassment used in the code in a local government context?**

- To a great extent

**Q9a. If there are other definitions you would like to recommend, please provide them here.**

- The Code needs to allow for the robust exchange of political views.

**Q10. Is there sufficient reference to the use of social media?**

- No

**Q10a. Should social media be covered in a separate code or integrated into the overall code of conduct?**

- Integrated into the code

**Q10b. 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:**

- Reference to social media and its use by members and the Public as means of communications need to be specifically mentioned within the Code.
- There is a need to have social media guidance within the Code, as this would mean that members of the public are not cross referring to a number of policies or guidance, which can be frustrating for them, and lead to confusion.

- There should be strong guidance of the expected behaviours of members when using Social media.

## Registration and declarations of interests

The law at present requires, as a minimum, registration and declaration of 'Disclosable Pecuniary Interests' - that is matters which directly relate to the councillor and their partner if applicable.

The LGA is proposing that all councillors are required to declare interests where matters also relate to or affect other family members or associates. The LGA has broadened the requirement to declare interests beyond this current statutory minimum in line with a recommendation from the Committee on Standards in Public Life. These specific provisions are set out in **Appendix B** of the Code.

### **Q11. To what extent to you support the code going beyond the current requirement to declare interests of the councillor and their partner?**

- To a moderate extent

#### **Q11a. If you would like to elaborate on your answer please do so here:**

- There is general agreement that the obligation should extend to those who live in the same household as the member. However, 'other family members and associates' is too wide and to define associates would be too difficult without causing confusion.

### **Q12. Should the requirement to declare interests be in the main body of the code or in the appendix where the draft model code currently references it?**

- In the main body of the code

#### **Q12a. 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:**

- Due to its importance it should be included within the main body of the Code.
- It can be very difficult to flick back and forth in documents, and therefore in all instances it would prove clearer for the principal to be followed by the guidance.
- This approach would assist members of the public reading the document.

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.

### **Q13. To what extent do you support the inclusion of these additional categories for registration?**

1. 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	To a great extent
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2. 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	To a great extent
3. Any organisation, association, society or party directed to charitable purposes	To a great extent
4. 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)	To a great extent

**Q13a. If you would like to propose additional or alternative categories for registration, please provide them here:**

N/A

**Q14. To what extent to you support the proposed requirement that councillors do not accept significant gifts as set out in Obligation 11?**

- To a great extent

**Q14a. If you would like to elaborate on your answer please do so here:**

- The definition of significant gift, needs to be clearly linked to the value.

**Q15. The draft code proposes £25 as the threshold for registering gifts and hospitality. Is this an appropriate threshold?**

- No, it should be higher (please specify amount): £50

**Q16. 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.**

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

**Q16a. If you would like to suggest any other accompanying guidance please do so here:**

N/A

**Q17. If you would like to make any further comments about the code please do so here:**

N/A