



MELTON PARISH COUNCIL

IMC(20)49

LOCAL GOVERNMENT ASSOCIATION – CONSULTATION ON NEW MODEL MEMBER CODE OF CONDUCT

Background and summary

The panel below this covering report provides a link to a consultation document on a new model Member Code of Conduct which runs until 17 August. Members of IMC may wish to discuss the consultation document and consider whether or not to respond. The key issues are set out below.

Report

The new draft Model Code updates the existing Code, which Melton Councillors first adopted in 2012, and re-adopted on 8 May 2019 following the election of the new Council.

The Code is based on the seven principles of public life as developed by the Nolan Committee report in 1995 and sets out how Councillors should behave in office and specific obligations of conduct that they should observe.

The Code applies to all Councillors, at all tiers of local government. Generally this succinct document provides in a few pages the principles of conduct that all should follow, and does this clearly and without ambiguity. The exception however is in relation to breaches of the Code where the procedure differs for local (i.e. town and parish) councils and lacks clarity.

The Localism Act 2011, on which the basis of the present Code rests, in effect removed any sanctions that could be imposed directly by local councils themselves. The Localism Act 2011, sections 28(6) and 28(9), places the duty of investigation and decision on allegations of misconduct by local councillors on the principal authority – in our case East Suffolk – where they are exercised by the Monitoring Officer and the “Independent Person”.

The section of the draft Code headed “Breaches of the Code of Conduct” is unclear as to how its application differs in respect of principal authorities and local councils, and this is likely to cause confusion. Local councils cannot take decisions on sanctions

against councillors themselves directly. This was clearly restated in R v Ledbury Town Council and Herefordshire County Council (2018).

Looking at the text of the “Breaches of conduct” section of the draft Code, whilst s27(6) of the Localism Act 2011 includes local councils in the definition of “relevant authorities”, s28(6) goes on to state that “a relevant authority *other than a parish council* (my italics) must have in place arrangements under which allegations can be investigated. The paragraph in the draft Code that refers to the need to have mechanisms in place to investigate allegations does not make this distinction clear, and certainly led the councillors of Ledbury to get into difficulties with the Administrative Court when an action was brought against them by way of judicial review. Given that there are more local councillors than those in other authorities this omission is important.

Whilst one can see why the draft Code adopts a “one size fits all” approach for brevity, it would be helpful if examples were to be given showing how the process can work in practice, and sanctions available for breaches of the Code. Whilst breaches may be relatively infrequent, when they do arise they can impact significantly on the council concerned.

Recommendations

Members of IMC are invited to consider the draft Code and consider whether to make any recommendations, in particular with reference to the section entitled “Breaches of the Code of Conduct” where it might be considered more clarity and examples would assist understanding in an important area.

William Grosvenor

Clerk and Executive Officer to the Council

6 August 2020

The Local Government Association (LGA) has launched a [consultation](#) on a new [model member code of conduct](#).

High standards of conduct and behaviour are of huge importance to the local (parish and town) council sector as they are needed to protect the integrity of decision making, maintain public confidence, and safeguard local democracy.

NALC therefore strongly encourages local councils and county associations of local councils to consider the proposed new [model member code of conduct](#) and respond to the LGA [consultation](#) before the deadline of 17 August 2020.

We all know the impact that poor behaviour, bullying and harassment can have on individuals and on local councils as organisations, so it is vital we continue to work as a sector to improve standards and push for further reform, at both local and national level.

Therefore, while NALC will be responding to the consultation and engaging further with the LGA, we are also calling for further action by the government to introduce a new power for local authorities to suspend councillors for a period of up to six months, and for the Committee on Standards in Public Life to review progress on the implementation of the reports wider recommendations.