

Table Epsom & Ewell Borough Council: Responses to draft LGA Code of Conduct Consultation

Summary

Epsom & Ewell Borough Council updated its Code of Conduct for Members April 2019 following publication of “Local Government Ethical Standards. A Review by the Committee on Standards in Public Life”, January 2019 (‘the Report’).

The new Members Code therefore sits as one holistic document. It provides one central place for all related and linked information to sit. This is because one of the recommendations from the Report is around ensure transparency of processes and decision making. It can be a challenge for anyone looking for various documents to find them and then understand how they all relate to each other. For this reason we felt it best for the Code to actually contain all the key elements of a code of conduct process, including how complaints will be dealt with.

Another recommendation relates to the access to more than one Independent Person. The Council was already implemented a change, by working with a number of other Surrey Councils in setting up a Panel of Independent Persons. This another example of how this Council continues to proactively promote an effective standards regime.

We have also added to the standard Nolan Principles with two extra principles. We felt it was important in a society which has moved on from when the Nolan Principles were first set, to add the wider sense of duty which is now part of the norm. We therefore added:

| | |
|---------------------------|---|
| 8: Duty to uphold the law | Members must act to uphold the law and act on all occasions in accordance with the trust that the public has placed in them. |
| 9: Stewardship | In discharging their duties and responsibilities Members must ensure that the Council’s resources are used both lawfully and prudently. |

The aim of any Code which manages conduct, is to ensure ethical practice, along with a culture which supports this. The Council does not suffer from a culture of poor ethical behaviour, however, this has not acted as a barrier to having a more detailed Code. Through the process of effective induction and ongoing training, against an existing backdrop of an ethical culture, this Council's Code has continued the tradition of good leadership and behaviours by Members.

Sadly this is not always the case elsewhere as the Report reflects and we can understand why the work undertaken by the LGA for a generic Code is important. However, as it stands at present, it appears that this Council's Code is much stronger and more transparent than the generic one produced for consultation, which may be a missed opportunity for change which some Authorities clearly need.

Epsom & Ewell Borough Council: Responses to draft LGA Code of Conduct Consultation

Additional suggestions for the Model Code

To consider the addition of the following, which we feel would address concerns which are generally prevalent in the sector:

| | |
|---|--|
| 1 | The Code should be one document which sets out its purpose, the principles, deals with interests, gifts, dispensations and the complaints process. Invariably the latter is missing and this can hamper the ability of those who are not familiar to understand the processes. |
| 2 | The interest section in any code must go beyond the simple statement of the law on pecuniary and non-pecuniary interests. It should highlight bias, predetermination, predisposition and lobbying and advise where Members can get further advice. |
| 3 | The Code should tie into other Council documents such as other protocols (eg Member officer protocol, planning protocol), codes of conduct, and unreasonable behaviour polices. Often Members need the same protection as staff in cases of unacceptable behaviour which they inevitably at some point face. |
| 4 | The target of most thinking, is that the Code of Conduct's only purpose is to promote good behaviour of its Members. It should also act as a tool to support and defend members from unacceptable behaviours from 3rd parties. |
| 5 | There should be a consideration of further principles to be added to the Nolan principles to reflect the changes in public expectation. |
| 6 | There should also be a glossary of terms used in the Code. This will help the public to better understand and interpret the Code, and helps as a quick reference guide. |

Responses to draft LGA Code of Conduct Consultation

| Paras | Subject matter | Current wording | Comments |
|-------|----------------|-----------------|----------|
|-------|----------------|-----------------|----------|

| | | | |
|-------------|---|---|--|
| Para 1 | Civility | <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. <p>As a councillor you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a civil manner. You should not subject individuals, groups of people or organisations to unreasonable or excessive personal attack.</p> | The use of the words 'unreasonable' and 'excessive' is subjective. Care needs to be taken that this does not lead to either greater conflict or an increase in complaints of a trivial nature. |
| Paras 5 & 6 | Confidentiality and access to information | <ol style="list-style-type: none"> 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. | With reference to para 6, it would be useful to have a reference to GDPR and FOI in this section |

| | | | |
|--------------|---|--|--|
| | | 6. Not preventing anyone getting information that they are entitled to by law. | |
| Para 9 | Use of council resources and facilities | <p>9. Not misusing council resources.</p> <p>You may be provided with resources and facilities by the council to assist you in carrying out your duties as a councillor. Examples include office support, stationery and equipment such as phones, and computers and transport. These are given to you to help you carry out your role as a councillor more effectively <u>and not to benefit you personally</u> of which you are a member or in a position of general control or management</p> | <p>It is unclear from the wording the extent of this. A simple oversight could result in a breach. The Code should be consistent with policies which exist for Members and staff on use of resources.</p> <p>Would be better to add examples and also clarify that Council resources must not be used for election purposes.</p> |
| Para 11 & 12 | Gifts and hospitality | 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. | This provision is unclear. For example, para (11) What is a 'significant' gift? Is it the monetary value? It says 'not accepting', then 'exercise caution'! |

| | | | |
|------------|-------------------------------|--|---|
| | | <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>You should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a member. However, you do not need to register gifts and hospitality which are not related to your role as a member, such as Christmas gifts from your friends and family, or gifts which you do not accept. However, you may wish to notify your monitoring officer of any significant gifts you are offered but refuse which you think may have been offered to influence you.</p> | <p>We are required to register gifts whether or not we accept them – this says ‘may wish to notify’, but only if you believe they are a bribe. We feel this is weak and does not promote the sense of transparency the public now expects.</p> <p>Setting the value of a notifiable gift at £25 is out of date. If all offers are subject to notification an amount of £100 would better reflect current costs.</p> |
| Page 7 & 8 | Internal resolution procedure | <p>The internal resolution procedure</p> <p>The internal resolution procedure should be proportionate, allow for members to appeal allegations and decisions, and allow for an escalating scale of intervention. The procedure should be voted on by the council as a whole.</p> | <p>Calling something an ‘internal resolution process’ may leave members of the public feeling their complaints are not being taken seriously. It is an investigation process.</p> <p>To allow an appeal process for Members only would not be fair to those bringing complaints. If there are</p> |

| | | | |
|--|--|---|--|
| | | <p>7. where of a serious nature, a bar on chairing advisory or special committees for up to two months</p> <p>8. where of a serious nature, a bar on attending committees for up to two months.</p> | <p>to be options, then these should be available to both sides.</p> <p>If the complaints handling process was part of the Code then Council would be agreeing the process.</p> <p>Whilst such additional sanctions may be welcome are they the ones we would opt to include.</p> <p>Why only bar from chairing advisory or special committees? Excluding someone from attending committees because they regularly use their private accounts for council emails or for regular data breaches or being seriously uncivil to residents seems to be an odd way to change a habit.</p> <p>There may be no meetings that they were eligible to attend for 2 months – so could be pointless. This only mentions Committees, what about Council meetings?</p> |
|--|--|---|--|

| | | | |
|--|------------|--|---|
| | Appendix B | <p>Table 2: Other Registerable Interests</p> <p>Any Body 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 Body—</p> <p>(a) exercising functions of a public nature;</p> <p>(b) directed to charitable purposes; or</p> <p>(c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)</p> <p>of which you are a member or in a position of general control or management</p> | <p>This is does not appear clear. It suggests that you do not have an interest unless you are appointed or nominated by the Council. Being appointed by the Council is obvious, however, it is when it is not obvious which needs to be recorded.</p> <p>Therefore, if you were e.g. Chairman of the Civic Society you would not have a registerable interest, but if you were appointed by the Council to the Management of Citizens Advice by the Council, you would have a registerable interest.</p> <p>This should be wider to ensure greater transparency with the deletion of the words “and to which you are appointed or nominated by the council”</p> |
|--|------------|--|---|