

**COUNCILLORS' CODE OF CONDUCT - CONSULTATION**

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**1. EXECUTIVE SUMMARY**

- 1.1 The purpose of this report is to advise of a consultation which has been launched by the Scottish Government (SG) on a review of the Councillors' Code of Conduct. The consultation period will run from 19<sup>th</sup> October 2020 until 8<sup>th</sup> February 2021.
- 1.2 The SG have been working with representatives from COSLA, SOLACE, and SOLAR, along with the Standards Commissioner and the Commissioner for Ethical Standards in Public Life, to produce an updated code and are now consulting on this proposed new Code (copy attached at Appendix 1).

**2. RECOMMENDATIONS**

Members are asked to:-

- 2.1 Note the arrangements that are in place for a SG led consultation on a review of the Councillors' Code of Conduct, running from 19<sup>th</sup> October 2020 until 8<sup>th</sup> February 2021.
- 2.2 Agree that delegation is given to the Executive Director, as Monitoring Officer, to prepare and submit a response, after consultation with the Leader and Depute Leader of the Council and the Leader of the Opposition within the designated timescales.

**3. DETAIL**

- 3.1 Section 1 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 requires the Scottish Ministers to issue a Code of Conduct for Councillors. The current version of the Code was originally issued in 2010 and amended in 2018.
- 3.2 The 2000 Act states that Ministers shall issue a Councillors' code only after it has been laid before and approved by a resolution of the Scottish Parliament. The same applies to any revision or re-issue of the Code.

- 3.3 The SG have considered that many developments have occurred over the last ten years since the Code was last substantially reviewed and it is important to take account of these changes and to provide users with the opportunity to comment on the review.
- 3.4 The main aim of the review is to make the Code easier to understand, to take account of developments such as the role of social media, and to reinforce the importance of behaving in a respectful manner, making it clear that bullying and harassment is completely unacceptable.
- 3.5 A summary of the key changes being proposed are detailed below:-
- A general rewrite changing the Code to the first person and adopting plain English wherever possible. This makes it easier to understand and encourages councillors to take ownership;
  - A greater emphasis on addressing discrimination and unacceptable behavior;
  - Stronger rules around accepting gifts, both to protect councillors and to build confidence in their impartiality amongst the general public;
  - A substantial rewrite of Section 5 establishing three clear and distinct stages to determine a declaration – Connection – Interest – Participation;
  - Significantly liberalises the guidance/rules around being a council-appointed representative on an outside body. The exceptions to this are for quasi-judicial matters and other situations where such appointments would create a clear conflict of interest;
  - Makes more clear the rules around access and lobbying;
  - Section 7 has been substantially reworked in order to provide a more generic approach that can cover all types of applications and decisions, and not be so heavily focussed on planning matters.
- 3.6 Further detail on the proposed changes can be found in the revised Code (attached at appendix), which includes explanatory notes to assist in understanding the revisions.
- 3.7 Although not part of this consultation, the Standards Commission also proposes to issue new guidance alongside the revised Code, which will be made available on the Commission's website.
- 3.8 Responses to the consultation are invited by 8<sup>th</sup> February 2021 using the Scottish Government's consultation hub, Citizen Space at <http://consult.gov.scot/>. Details of the consultation questions are provided on pages 43 to 45 of appendix 1. It is open to any individual Member to submit a response.
- 3.9 It is proposed that an Officer response is prepared and submitted on behalf of the Council by the Monitoring Officer, after consultation with the Leader and Depute Leader of the Council and the Leader of the Opposition.

- 3.10 If the recommendation at paragraph 3.9 is accepted, the Monitoring Officer will write to all Members, inviting them to submit comments to him by Friday 15<sup>th</sup> January 2021 for possible inclusion in the overall response.

#### **4. CONCLUSION**

- 4.1 A consultation has been launched by the Scottish Government on a review of the Councillors' Code of Conduct. The consultation period will run from 19th October 2020 until 8th February 2021. Members are asked to agree that delegation is given to the Executive Director, as Monitoring Officer, to prepare and submit a response within the designated timescales.

#### **5. IMPLICATIONS**

- 5.1 Policy – Compliance with the Code of Conduct  
5.2 Financial – none arising from this report  
5.3 Legal – Review undertaken in line with the Ethical Standards in Public Life etc. (Scotland) Act 2000  
5.4 HR – none arising from this report  
5.5 Equalities/Fairer Scotland Duty/Islands – none arising from this report  
5.6 Risk – none arising from this report  
5.7 Customer Services – none arising from this report

#### **6.0 APPENDICES**

- 6.1 Appendix 1 – The Councillor's Code of Conduct – Consultation on possible revision of the Code

#### **Policy Lead – Councillor Mary Jean Devon – Support Services**

**Douglas Hendry - Executive Director with responsibility for Legal and Regulatory Support**

29<sup>th</sup> October 2020

#### **For further information, please contact:**

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