

COUNCIL

DATE OF MEETING: 26 NOVEMBER 2020

TITLE OF REPORT: MEMBERS' CODE OF CONDUCT – UPDATE

Report of: Monitoring Officer

1 PURPOSE OF REPORT

- 1.1 To consider the recommendations of the Standards Committee (Minute No 4) that minor adjustments be made to the Hart District Council Members Code of Conduct (update with tracked changes attached as Appendix 1). The areas highlighted in **yellow** represent the original changes that were recommended to Standards Committee. The changes recommended post Standards Committee are shown as “tacked” changes in **blue**.
- 1.2 These changes reflect the recommendations of the Parliamentary Committee on Standards in Public Life¹ and a consultation by the Local Government Association on a draft model Code of Conduct².

2 RECOMMENDATION

Standards Committee recommends to Full Council that the HART DISTRICT COUNCIL MEMBERS' CODE OF CONDUCT be adjusted as set out in Appendix 1.

3 BACKGROUND

- 3.1 Codes of conduct play an important role in upholding ethical standards in an organisation. They are not an alternative to values and principles, but they make clear how those values and principles should be put into practice. They enable people to be held to account for their actions by setting out clear expectations about how they should behave.

4 CONSIDERATIONS

- 4.1 The Parliamentary Committee on Standards in Public Life (PCSPL) highlights the danger of drawing a too narrow scope for the application of the Code of Conduct. It makes it difficult to effectively deal with some instances of poor behaviour, with social media use.
- 4.2 The PCSPL recognises the question of public and private capacity raises significant questions about the privileges and responsibilities of representatives. It says that democratic representatives need to have their right to free speech and expression protected and not unduly restricted; but

¹ See CSPL website for further details www.gov.uk/government/news/theprinciples-of-public-life-25-year

² <https://www.local.gov.uk/code-conduct-consultation-2020>

equally the public interest demands that they meet certain responsibilities in that role.

- 4.3 However, it recognises the widespread use of social media presents a particular challenge to deciding whether a code of conduct applies to instances of behaviour. In line with the guidance provided in Wales, the PCSPL consider that when a social media account identifies the individual as a councillor or an individual makes comments related to their role as a councillor, then the code of conduct applies. This would be the case even if the individual posts a 'disclaimer' to suggest that the account is a personal one.
- 4.4 The PCSPL also recognises that in individual's private life – that is, private behaviour in a personal capacity – should rightly remain out of scope. This includes, for example, what is said in private conversations (where those conversations are not in an official capacity), but it says that those in high-profile representative roles, including councillors, should consider that their behaviour in public is rightly under public scrutiny and should adhere to the Seven Principles of Public Life. This includes any comments or statements in print, and those made while speaking in public or on publicly accessible social media sites.
- 4.5 This does not, however, mean that councillors should be censured just because an individual dislikes or disagrees with what they say; standards in public life do not extend to adjudicating on matters of political debate. Controversial issues must be able to be raised in the public sphere, and councillors should have their right to form and hold opinions respected. ECHR Article 10 rights to freedom of expression must be respected by councils when adjudicating on potential misconduct, considering the heightened protection granted to political expression.
- 4.6 **The Parliamentary Committee on Standards in Public Life, therefore, recommends that Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly accessible social media.**
- 4.7 **It also recommends that local authority's code of conduct should apply to a member when they claim to act, or give the impression they are acting, in their capacity as a member or as a representative of the local authority.**

These recommendations are reflected in the recent consultation by the Local Government Association on a draft model Code of Conduct:

"The Code of Conduct applies to you when you are acting [or claiming or giving the impression that you are acting] in [public or in] your capacity as a member or representative of your council, although you are expected to uphold high standards of conduct and show leadership at all times. The Code applies to all forms of member communication and interaction, including written, verbal, non-verbal, electronic and via social media, [including where

you could be deemed to be representing your council or if there are potential implications for the council's reputation.]"

- 4.8 The only other change suggested is for completeness to include reference to "harassment" in the context of bullying and intimidation. Harassment is repeated behaviour which upsets or annoys people.

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Appendix 1 – draft updated Hart Members Code of Conduct 2020