

APPENDIX 3

Draft response

Broxtowe Borough Council has examined the new draft model code and welcomes the following:

- The shorter direct wording of the bold wording in the new Code is helpful and easy to read
- The recognition of the role of social media is welcome although quite limited in its identification of social media platforms and applications and should be developed to recognise the issues that social media can have in standards complaints and issues.
- The presumption that a Member is acting in his/her official capacity is probably more realistic in the eyes of many people engaging with their local councillor
- A move to a duty of civility may be a more helpful term than “resect” provided there is sufficient guidance as to degrees and levels of civility and what might be expected.
- An internal resolution mechanism might bring some checks and balances on the Standards regime and enable some scrutiny of decisions made by Monitoring Officers working in conjunction with the Independent Person. Where an investigator has carried a full investigation, interviewing people and researching large amounts of material; it is hard to envisage a mechanism that can sufficiently review an investigator’s report and findings.

The draft model code also has some serious shortcomings, notably:

- The Application of the Code is confusing. It applies when acting in [public or in] your capacity as a representative of your council but then goes on to say “you are expected to uphold high standards of conduct and show leadership at all times”. This is far from clear. Does it really mean the code applies at all times in any situation? Or, is there some other standard or code to be applied when a councillor is not acting in his/her official capacity? There needs to be greater clarity for Members than this. Alternatively presume official capacity unless this is rebutted and if it is no additional standards can be imposed or implied. Those bound by the Code need more certainty.
- There is no attempt made to benchmark civility. Is character to be used and if so, might something out of character of one individual be entirely in character for another? Should there then be more objective tests and if so what are they so there can be consistent application?
- Sanctions are only set out under the Internal resolution procedure and suggest the 8 possible sanctions or actions escalate. It is questionable whether they do escalate and might be seen differently by different members or complainants. Surely the more appropriate test, which would stand up to scrutiny is whether the action is proportionate? Yet proportionality is nowhere addressed in the current draft. Should this be an exhaustive list? Might councils be given powers to add their own actions by local agreement?
- The section on interests lacks clear guidance for councillors and is particularly unhelpful regarding dpi’s
- Gifts and hospitality seems to be the wrong way round. Councillors are expected to register all gifts and hospitality over £25, a figure which has not increased for

most, if not all the time there has been a standards regime. The threshold should be increased as many councils have already sought to do, to £50 but the duty to register should apply to ALL gifts and hospitality but may be accepted where the value is less than £50 (with perhaps a higher or locally agreed figure for overseas visits).