

# LIVERPOOL CITY REGION COMBINED AUTHORITY

To: The Metro Mayor and Members of the Combined Authority

Meeting: 21 January 2022

Authority/Authorities Affected: All

EXEMPT/CONFIDENTIAL ITEM: No

KEY DECISION No

## REPORT OF THE MONITORING OFFICER

### CONSTITUTION AND GOVERNANCE UPDATE

#### 1. PURPOSE OF REPORT

- 1.1 At the meeting of the Audit and Governance Committee on 24 November 2021, Members considered the revised code which aligned the arrangements for investigating and making decisions in relation to allegations made concerning Councillor/Member conduct across Liverpool City Region authorities. Accordingly, the Committee agreed that the Merseyside Model Code be commended to the LCR Combined Authority for approval. The Combined Authority approval to adopt this Code is now sought.
- 1.2 This report also seeks approval of a number of nominations to the Overview and Scrutiny Committee.

#### 2. RECOMMENDATIONS

- 2.1 It is recommended that the Liverpool City Region Combined Authority:
  - (a) Approve the revised Merseyside Model Code, as set out in Section 3, for inclusion in the Constitution;
  - (b) Note the ongoing exploratory work to, secure a common approach to investigating Member allegations as set out in paragraph 3.14; and
  - (c) Councillors Tricia O'Brien and Councillor Patrick Hurley be appointed to the Overview and Scrutiny Committee.

#### 3. MERSEYSIDE MODEL CODE

- 3.1 The Local Government Association ("LGA") published a model Councillor Code of Conduct in December 2020 ("LGA Model Code"). A working group comprised

primarily of the Monitoring Officers of the six constituent authorities plus the Fire, Waste and Police authorities, (nine authorities) across the Liverpool City Region was established to modify the LGA Model Code and to align and recommend a shared code.

- 3.2 A modified version of the LGA Model Code (“Merseyside Model Code”) was adopted by the Liverpool City Region Combined Authority at its meeting on 4 June 2021.
- 3.3 Guidance designed to assist Monitoring Officers, and anyone nominated by a Monitoring Officer to carry out investigations on their behalf and to assist Members/ Councillors in understanding the process was published by the LGA on 21 September 2021.
- 3.4 The LGA have also made some minor changes to their model code in revisions dated 19 January and 17 May 2021.
- 3.5 The majority of the changes made to the LGA Model Code have been made to correct typographical errors contained in the Code when originally published by the LGA. However, a change has been made to the prejudicial interest test, which in the Merseyside Model Code and original LGA Model Code is applied to ‘your interests’. The revised drafting properly expands the scope of the test to include other interests and those of family and associates.
- 3.6 A copy of the Merseyside Model Code with the proposed amendments is included as Appendix One. However, further minor amendments may be required.
- 3.7 Monitoring Officers across the Liverpool City Region will continue to work together in an attempt to align amendments to the Merseyside Model Code across their respective authorities.
- 3.8 Liverpool City Region Combined Authority is exploring the possibility to further develop formal arrangements for investigating and making decisions in relation to allegations made concerning Member conduct in concert with the other City Region authorities.
- 3.9 On 21 September 2021, the LGA published guidance to better understand and apply the LGA Model Code (“LGA Guidance”).
- 3.10 Given its relationship to the LGA Model Code (*and in turn the Merseyside Model Code*), the LGA Guidance can be consulted should an allegation of a breach of the Merseyside Model Code be made against a Member of Liverpool City Region Combined Authority. For clarity, the only members the Combined Authority has are the Metro Mayor, the Mayor and Leaders from each of the constituent authorities and the Local Enterprise Partnership Chair. When the substitutes for each of these members listed as acting in the capacity of the substantive member, they too are for the purposes of understanding those duties a member of the Combined Authority. All other councillors that attend other Combined Authority Committees such as the statutory Overview and Scrutiny Committee and the non-statutory Transport Committee remain members of their own authority at all times.

- 3.11 A copy of the LGA Guidance is included as Appendix Two.
- 3.12 A working group comprised primarily of the Monitoring Officers of the nine authorities across the Liverpool City Region was established to see whether common arrangements for investigating and making decisions in relation to allegations made concerning Member/Councillor conduct could be adopted by Liverpool City Region authorities.
- 3.13 The work detailed in the above paragraph was paused pending adoption of the Merseyside Model Code by Liverpool City Region authorities and the publication of the LGA Guidance.
- 3.14 Work will now resume to see whether the Guidance (*or a modified version of the Guidance to accord more closely with local arrangements and the Merseyside Model Code*) can be adopted by Liverpool City Region authorities as their arrangements for investigating and making decisions in relation to allegations made concerning Member/Councillor conduct. Alternatively, the Guidance (*or a modified version thereof*) could supplement 'Members Code of Conduct Protocols'. Feedback from the Audit and Governance Committee regarding the desire for arrangements to reach commonality where they can but for local arrangements to prevail is understood by Monitoring Officers and will guide this work.

#### **4. OVERVIEW AND SCRUTINY COMMITTEE**

- 4.1 Following confirmation from Liverpool City Council, the Combined Authority is asked to recommend to remove the Councillors Anna Rothery and Pam Thomas from the Overview and Scrutiny Committee and to appoint Councillors Tricia O'Brien and Patrick Hurley.

#### **5. RESOURCE IMPLICATIONS**

##### **5.1 Financial**

There are no identified financial implications arising directly from this report.

##### **5.2 Human Resources**

There are no identified human resources implications arising directly from this report.

##### **5.3 Physical Assets**

There are no identified physical assets implications directly arising from this report.

##### **5.4 Information Technology**

There are no identified information technology implications directly arising from this report.

## **6. LEGAL IMPLICATIONS**

- 6.1 Under section 28 (6) of the Localism Act 2011, most local authorities must have in place:
- (i) arrangements under which allegations against Members can be investigated; and
  - (ii) arrangements under which decisions on allegations against Members can be made
- 6.2 There are no specific arrangements that must be adopted, but the arrangements adopted must be consistent with the requirements of section 28 of the Localism Act 2011 and involve an independent person.
- 6.3 The arrangements provided by the Guidance are consistent with the requirements of the Localism Act 2011.

## **7. RISKS AND MITIGATION**

- 7.1 Considering best practice and implementing improvements will help maintain sound corporate governance and the integrity of local authority decision making, minimising risk of challenge, corruption, improper conduct and standards complaints.
- 7.2 Not updating the Merseyside Model Code would result in Liverpool City Region Combined Authority's code not remaining up to date with best practice.
- 7.3 Not updating the existing code in association with other Liverpool City Region authorities may result in difficulties in shared interpretation and for Members in light of their roles in the constituent authorities.
- 7.4 There is a risk that allegations of a breach of the Merseyside Model Code may be investigated and handled differently unless specific guidance and/or procedures are adopted. Members may not fully understanding the relevant processes in the absence of express guidance.
- 7.5 Not adopting an approach consistent with other Liverpool City Region authorities may result in difficulties in shared interpretation and for Members in light of their roles in the constituent authorities.

## **8. EQUALITY AND DIVERSITY IMPLICATIONS**

- 8.1 There are no identified equality and diversity implications directly arising from this report.

## **9. PRIVACY IMPLICATIONS**

9.1 There are no identified equality and diversity implications directly arising from this report.

## **10. COMMUNICATION ISSUES**

10.1 Changes to the Merseyside Model Code and arrangements for investigating and making decisions in relation to allegations made concerning Member conduct impacts Liverpool City Region Combined Authority's Members.

10.2 The LGA undertook extensive consultation with LCR local authorities during the preparation of the LGA Code and Guidance.

10.3 Given that the working groups established to progress these matters involve the Monitoring Officers of Liverpool City Region Combined Authority's constituent authorities, communications to the relevant constituent authority stakeholders shall be undertaken directly at a constituent authority level.

## **11. CONCLUSION**

11.1 This report details proposed changes to the modified version of the LGA Model Code adopted by the Liverpool City Region Combined Authority at the meeting on 4 June 2021 and the publication by the LGA of guidance to support investigations into Member / Councillor Conduct. Work shall continue to see whether common arrangements for investigating and making decisions in relation to allegations made concerning Member / Councillor conduct can be adopted by Liverpool City Region authorities.

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### Appendices:

Appendix One - Proposed Amendments to Merseyside Model Code

Appendix Two - LGA Guidance