

AUDIT, GOVERNANCE AND STANDARDS COMMITTEE

11 April 2024

Revised Member's Code of Conduct and Arrangements for Dealing with Councillor Conduct Complaints

Timetable	
Meeting	Date
Audit, Governance and Standards Committee	11 April 2024
Democracy and General Purposes Committee	19 June 2024
Council	17 July 2024

Will this be a Key Decision?	No
Urgency	Not Applicable
Final Decision-Maker	AUDIT, GOVERNANCE AND STANDARDS COMMITTEE
Lead Head of Service	Russell Fitzpatrick, Monitoring Officer
Lead Officer and Report Author	Russell Fitzpatrick, Monitoring Officer
Classification	Public
Wards affected	All

Executive Summary

This report provides an update on a review of Local Government Ethical Standards and in accordance with that review proposes various changes to Maidstone Borough Council's Member's Code of Conduct and arrangements for dealing with Councillor conduct complaints, which form part of the Council's Constitution. This update includes the consultation exercise carried out with the Kent Association of Local Councils.

Purpose of Report

Recommendation to Council

This report makes the following recommendation to the Committee:

THAT

1. The proposed update to the Member Code of Conduct at Appendix 4 to this Report, be noted.
 2. The proposed update to the arrangements for dealing with councillor conduct complaints at Appendix 4 to the 15 January 2024 Officer Report, be noted.
 3. The Democracy & General Purposes Committee recommend to Council that the Constitution be updated to include the Member Code of Conduct at Appendix 4 to this Report, and the arrangements for dealing with councillor conduct complaints at Appendix 4 to the 15 January 2024 Officer Report.
 4. The Council be recommended to adopt the Member Code of Conduct at Appendix 4 to this Report, and the arrangements for dealing with councillor conduct complaints at Appendix 4 to the 15 January 2024 Officer Report.
 5. The Monitoring Officer in consultation with the Chair of the Committee be authorised to effect editorial amends prior to a Report being submitted to the Democracy & General Purposes Committee.
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Revised Member's Code of Conduct and Arrangements for Dealing with Councillor Conduct Complaints

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	<p>The four Strategic Plan objectives are:</p> <ul style="list-style-type: none"> • Embracing Growth and Enabling Infrastructure • Safe, Clean and Green • Homes and Communities • A Thriving Place <p>We do not expect the recommendations will by themselves materially affect achievement of corporate priorities.</p>	Monitoring Officer
Cross Cutting Objectives	<p>The four cross-cutting objectives are:</p> <ul style="list-style-type: none"> • Heritage is Respected • Health Inequalities are Addressed and Reduced • Deprivation and Social Mobility is Improved • Biodiversity and Environmental Sustainability is respected <p>We do not expect the recommendations will by themselves materially affect achievement of the cross-cutting objectives</p>	Monitoring Officer
Risk Management	<p>The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework. We are satisfied that the risks associated are within the Council's risk appetite and will be managed accordingly.</p>	Monitoring Officer
Financial	No implications identified.	Monitoring Officer
Staffing	We will deliver the recommendations with our current staffing.	Monitoring Officer
Legal	It is a requirement under the Localism Act 2011 that all Councils adopt a Code of Conduct and that the Code adopted must be based upon the Nolan Principles of Conduct in	Monitoring Officer

	Public Life. The extant Members' Code of Conduct adopted 2012 can be found within Part D (Codes) of the Council's Constitution. Pursuant to s. 28(5) of the Localism Act 2011 the Council may revise its existing code of conduct adopt a code of conduct to replace its existing code of conduct.	
Information Governance	The recommendations will impact personal information (as defined in UK GDPR and Data Protection Act 2018) the Council processes. The Information Governance Team have reviewed the processing of personal data affected and the associated documentation has been updated accordingly.	Monitoring Officer
Equalities	The recommendations do not propose a change in service therefore will not require an equalities impact assessment.	Monitoring Officer
Public Health	No implications identified.	Monitoring Officer
Crime and Disorder	There are no implications to Crime and Disorder	Monitoring Officer
Procurement	No implications identified.	Monitoring Officer
Biodiversity and Climate Change	There are no implications on biodiversity and climate change.	Monitoring Officer

2. INTRODUCTION AND BACKGROUND

- 2.1 On 15 January 2024 this Committee considered the attached report and appendices (at Appendix 1) and resolved (at Appendix 2) "*That consideration of the item be deferred to the next meeting, to allow the Kent Association of Local Councils had been consulted on the proposed code*".
- 2.2 On 24 January 2024 the Kent Association of Local Councils (KALC) were consulted on the proposed revisions to the proposed amends to Maidstone Borough Council Code of Conduct.
- 2.3 KALC's response (at Appendix 3) was received by email on 6 March 2023. The email included two attachments:
- 2.3.1 A track-changed version of the Code of Conduct titled "Code of Conduct – Jan 24 – amended – mark up," highlighting proposed amendments as track changes;
- 2.3.2 a 'clean' non-track changed version of the Code of Conduct.

For ease of reference, we have simply attached the track-changed version.

- 2.4 The Monitoring Officer has considered the suggestions provided by KALC. As a result, additional amendments are proposed, presented in Appendix 4 alongside Appendix 3 of the Officer Report dated January 15, 2024. These proposed amendments have been visually highlighted in yellow for clarity.
- 2.5 Stylistic amendments aimed at enhancing clarity or addressing specific concerns have been accepted. Amendments tailored to Parish Councils, which do not directly pertain to the regulation of Maidstone Borough Council members, have not been universally adopted but remain open for consideration by the respective Parish Councils. Amends which do not align with the existing legal framework have not been accepted.
- 2.6 This report serves to encapsulate the proceedings and outcomes of the Committee's deliberations on the proposed revisions to the Maidstone Borough Council Code of Conduct, inclusive of the consultation with KALC and subsequent amendments proposed by the Monitoring Officer.

3. AVAILABLE OPTIONS

3.1 The Committee has the following options available:

- 3.1.1 **Option 1:** To recommend to Council that the proposed amendments to the Council's Member's Code of Conduct (at Appendix 4 to this Report) and the arrangements for dealing with councillor conduct complaints (at Appendix 4 to the 15 January 2024 Officer Report) be adopted and the Constitution updated accordingly. This option is recommended on the basis that members are familiar with this layout of the code, the changes to be considered are not extensive. This is also the preferred option so as to provide consistency with other Kent authorities.
- 3.1.2 **Option 2:** To recommend to Council that the amends proposed by KALC to the Council's Member's Code of Conduct (at Appendix 3 to this Report) and the arrangements for dealing with councillor conduct complaints (at Appendix 4 to the 15 January 2024 Officer Report) be adopted and the Constitution updated accordingly. Stylistic amends aside, this option is not recommended as some of the amends are Parish Council specific and this would create interpretational issues for breaches of the Code of Conduct by Maidstone Borough Council Members and would not align with the regulatory framework.
- 3.1.3 **Option 3:** To recommend to Council that alternative proposed amendments to the Member's Code of Conduct and arrangements for dealing with councillor conduct complaints be adopted and the Constitution updated accordingly. The Localism Act 2011 provides local authorities with the freedom to create their own Code of Conduct and arrangements for dealing with councillor conduct complaints, so it is open to the Audit, Governance and Standards Committee to make alternative proposed amendments having considered the various reports, government responses and LGA

guidance. This is not a recommended course of action as the Council could inadvertently create a “third” Code of Conduct in circumstances where various options have already been considered and assessed extensively by both the LGA and separately by the Kent Secretaries group.

- 3.1.4 **Option 4:** To recommend to Council to adopt the LGA Model Code of Conduct (at Appendix 2 to the 15 January 2024 Officer Report). This option is not recommended as the Monitoring Officer on review of the existing code considers that the majority of the points set out in the LGA Model Code are captured in the Kent Code. The LGA will continuously review the model code and the Monitoring Officer (and Kent Secretaries group) will in turn continuously review the changes and update members to determine whether further changes need to be made to the local code. The majority of the LGA Model Code has been incorporated within a code that Councillors are au fait with.
- 3.1.5 **Option 5:** Do nothing and make no changes to the existing Maidstone Code of Conduct so the Member’s Code of Conduct and arrangements for dealing with Councillor conduct complaints remain as they are currently. This option would run counter to the recommendations of the Committee in Standards in Public Life whose intention was to strengthen the position regarding ethical standards.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 Option 1 is the recommended option as this would reflect most of the LGA’s proposals and the CSPL’s best practice recommendations for local authorities and also reflects the recommendations of the Kent Secretaries group. Furthermore, Members are familiar with this layout of the code, the changes to be considered are not extensive and this is consistent with the position of the principal authority.

5. RISK

- 5.1 The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council’s Risk Management Framework. We are satisfied that the risks associated are within the Council’s risk appetite and will be managed accordingly.

6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 6.1 The consultation on the LGA Model Code of Conduct was presented to and noted by Audit, Governance and Standards Committee on 29 July 2020 where the contents of the then LGA Model Code of Conduct were noted.
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7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 7.1 The recommendations of the Audit, Governance and Standards Committee will be put to Full Council. The Democracy & General Purposes Committee will be consulted on Appendix 4 to this report and Appendix 4 to the 15 January 2024 Officer report prior to Full Council's consideration given the constitutional changes that would be required to give effect to this Committee's recommendation.
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8. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

1. Appendix 1: Officer Report of 15 January 2024 to this Committee with the following appendices:
 - 1.1. Appendix 1: Summary of Highlights of CSPL Report & Government Response
 - 1.2. Appendix 2: LGA Model Councillor Code of Conduct (December 2020 as updated on 19 January and 17 May 2021)
 - 1.3. Appendix 3: Proposed updated Maidstone Borough Council Member's Code of Conduct
 - 1.4. Appendix 4: Proposed updated Maidstone Arrangements for dealing with councillor conduct complaints
 2. Appendix 2: The minutes of this Committee's meeting of 15 January 2024
 3. Appendix 3: Kent Association of Local Councils (KALC) email of 6 March 2023 together with one attachment titled "Code of Conduct – Jan 24 – amended – mark up," highlighting proposed amendments as track changes;
 4. Appendix 4: Further proposed amends (highlighted in yellow) to the Member Code of Conduct.
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9. BACKGROUND PAPERS

None