

Complaints Received Under the Members' Code of Conduct

Final Decision-Maker	Audit, Governance & Standards Committee
Lead Head of Service	Patricia Narebor – Head of Legal Partnership and Monitoring Officer
Lead Officer and Report Author	Gary Rowland – Senior Lawyer, Corporate Governance
Classification	Public
Wards affected	All

Executive Summary

The report provides an update to the Committee on complaints received under the Members' Code of Conduct for the period 1 March 2021 to 30 August 2021.

Purpose of Report

Noting

This report makes the following recommendations to this Committee:

1. That the contents of the report be noted.

Timetable

Meeting	Date
Audit, Governance & Standards Committee	28 September 2021

Complaints Received Under the Members' Code of Conduct

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	High standards of conduct are essential amongst Members in delivering the Council's priorities. The Code of Conduct and complaints procedure supports this.	Senior Lawyer, Corporate Governance
Cross Cutting Objectives	No impact.	Senior Lawyer, Corporate Governance
Risk Management	The report is presented for information only and has no risk management implications. An effective Code of Conduct and robust complaints procedure minimises the risk of Member misconduct and is part of an effective system of governance.	Senior Lawyer, Corporate Governance
Financial	There are no direct financial implications; however, should it be necessary to appoint external Independent Investigators, the cost of this will be met by the Borough Council.	Senior Lawyer, Corporate Governance
Staffing	The complaints procedure is dealt within the remit of the Monitoring Officer with input from the Legal team as required.	Senior Lawyer, Corporate Governance
Legal	The requirements of the Localism Act 2011 with regards to the Code of Conduct and complaints procedure are set out within the report. The reporting process ensures that the Committee continues its oversight of the Code of Conduct as required by the Constitution.	Senior Lawyer, Corporate Governance
Privacy and Data Protection	No personal information is provided as part of the report.	Policy and Information Team
Equalities	Any potential to disadvantage or discrimination against different groups within the community should be overcome within the adopted complaints procedure.	Policy and Information Team
Public Health	None identified in the report.	Senior Lawyer, Corporate Governance
Crime and Disorder	None identified in the report.	Senior Lawyer,

		Corporate Governance
Procurement	None identified in the report.	Senior Lawyer, Corporate Governance

2. INTRODUCTION AND BACKGROUND

- 2.1 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 Public Life. The current Members' Code of Conduct ("the Code") for Maidstone Borough Council is set out in the Constitution.
- 2.2 The Localism Act 2011 requirement to adopt a Code of Conduct also applied to all Parish Councils. Most Parish Councils in the Maidstone area have adopted a similar Code of Conduct to the Borough Council, based on a Kent wide model. A few Parish Councils have adopted their own Code.
- 2.3 Under the Localism Act 2011 Maidstone Borough Council is responsible for dealing with any complaints made under the various Codes of Conduct throughout the Maidstone area.
- 2.4 The Constitution stipulates that oversight of Code of Conduct complaints is part of the remit of the Audit, Governance and Standards Committee.
- 2.5 As part of the Committee's oversight function it is agreed that the Monitoring Officer will provide reports on complaints to the Audit, Governance & Standards Committee. It should be noted that the Localism Act 2011 repealed the requirement to publish decision notices therefore, in providing the update to the Committee, the names of the complainant and the Subject Member are both kept confidential in accordance with the Data Protection Act 2018.
- 2.6 Since the last report to this Committee on 15 March 2021 the Monitoring Officer has received six further complaints. One complaint concerns a Borough Councillor whilst the other five complaints concern Parish Councillors. The status of each complaint is as follows:

Borough Councillor Complaint

- Allegation of bullying

The complaint was rejected for failing the preliminary tests.

Parish Councillor Complaints

- Allegation of bullying

The complaint was rejected for failing the preliminary tests.

- Allegation of bullying, intimidation, bringing office or Authority into disrepute and using position as councillor to confer an advantage or disadvantage

The complaint was rejected for failing the preliminary tests.

- Allegation of failing to deal with complaints appropriately

The complaint was rejected for failing the preliminary tests.

- Allegation of failing to deal with complaints appropriately

The complaint was rejected for failing the preliminary tests.

- Allegation of bullying, bringing office or Authority into disrepute and using position as councillor to confer an advantage or disadvantage

The complaint is currently under consideration by the Monitoring Officer.

Model Code of Conduct Update

- 2.7 The Kent Code of Conduct has been initially amended, in draft, following KCC Standards Committee consideration of the LGA Model Code of Conduct, early this year and changes considered by a working group.

The Kent MOs reviewed the LGA Model Code of Conduct against the Kent draft and agreed that the format of the LGA Code should not be adopted. However, it was recommended that the Kent Code be updated to include the following changes:

- (a) Description of bullying and harassment; and
- (b) An update of the Seven Principles of Public Life.

The final draft by KCC will be referred back to the KCC Committee as a proposed version for their approval. If approved, it will then be sent to Kent authorities for approval/adoption for their use.

Following approval/adoption by Maidstone Borough Council, Parish Councils will have the opportunity to consider whether they will adopt the Kent/Maidstone model or an amended version of their own or make no changes to their current codes.

The recommendations made by the Parliamentary Committee for Standards in Public Life, such as a review of the sanctions, cannot be adopted without further legislation. A consultation by Government on those recommendations is awaited. The required legislation has not been

enacted by Parliament and as such, the Code of Conduct cannot be amended to reflect the recommendations.

3. AVAILABLE OPTIONS

- 3.1 The Committee could decide that they no longer wish to receive the updates on complaints under the Code of Conduct. This is not recommended as it is part of the Committee's general oversight function.
 - 3.2 That the Committee note the update on complaints received under the Members' Code of Conduct.
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4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 Option 3.2, that the Committee note the update on complaints received under the Members' Code of Conduct is recommended as it is important that the Committee continue to oversee the complaints received.
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5. RISK

- 5.1 This report is presented for information only and has no risk management implications.

6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 6.1 Members of the Committee and the Independent Person will be consulted on individual complaints, as and when necessary, in accordance with the relevant complaints' procedure.

7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 7.1 As the report is for information only, no further action will be taken.

8. REPORT APPENDICES

None.