

Member Code of Conduct

Standards Committee Monday, 15 March 2021

Report of: Head of Legal Services & Monitoring Officer

Purpose: For decision

Publication status: Unrestricted

Wards affected: All

Executive summary:

The Committee is asked to consider recommending to Council the adoption of the national Model Code of Conduct as a replacement for the Council's current Member Code.

This will enable the Council to address recommendations by the Committee for Standards in Public Life and to complete an action on the Annual Governance Statement action plan.

The proposed new Code includes strengthened content in relation to bullying and harassment and registration of interests, gifts and hospitality.

This report supports the Council's priority of: Building a better Council

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Recommendation to Committee:

- A. That it be recommended to Council that the Local Government Association New Model Code of Conduct be adopted as set out in Appendix A.
- B. That it be recommended to Council that delegated authority be given to the Head of Legal and Monitoring Officer to make any consequential amendments required to the Constitution.

Reason for recommendation:

The Council has not reviewed its Member Code of Conduct since 2012. The Committee for Standards in Public Life (CSPL) has made a number of recommendations for local codes of conduct, which are addressed in a new Model Code of Conduct published by the Local Government Association (LGA).

In revising its Code of Conduct the Council can respond to the recommendations by CSPL and strengthen its approach to promoting good and ethical standards of behaviour by Councillors.

A review of the Member Code of Conduct is one of the actions within the Annual Governance Statement action plan.

Introduction and background

- 1 All councils are required to have a local Councillor Code of Conduct under the Localism Act 2011. The Council's current code appears as Part F of the Constitution. The Council adopted its current code in 2012.
- 2 The Localism Act leaves councils free to adopt their own codes of conduct, restricted only by the need for any code to be consistent with the principles of conduct in public life. In line with this freedom the LGA advises that the model code is a template for authorities to adopt either in whole or with local amendments.
- 3 The Standards Committee is responsible for monitoring the Code of Conduct and for making recommendations to Full Council on any changes to the Code.
- 4 In 2019 the Committee for Standards in Public Life (CSPL) published a review of local government ethical standards¹ which recommended that the Local Government Association (LGA) create an updated model code of conduct, in consultation with representative bodies of councillors and officers from all tiers of local government.
- 5 The review also made recommendations in relation to:
 - the recording of gifts and hospitality
 - the requirement to comply with a formal standards investigation
 - prohibitions on bullying and harassment
 - an annual review of the local code of conduct.
- 6 The LGA has now published a Model Member Code of Conduct, following a period of consultation involving a range of stakeholders including the National Association of Local Councils. Tandridge Council submitted a response to the consultation following consideration of the survey questionnaire by the Standards Committee.

¹ www.gov.uk/government/publications/local-government-ethical-standards-report

- 7 Some of the key elements of the Model Member Code of Conduct reflect the view of CSPL that councillors must not participate in a discussion or vote in a matter if they have any interest whether registered or not
- 'if a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your consideration or decision-making in relation to that matter.'*
- 8 Two meetings have been held, in which both Tandridge District Councillors and Parish Council Chairs participated, to review the new Model Member Code of Conduct. In both meetings there was general support for Tandridge to adopt the Code in its entirety.

Proposal

- 9 The LGA's Model Member Code of Conduct appears at Appendix A. A version of the Council's current Code of Conduct, with new and changed content from the new Model Code inserted and text which has been replaced shown as strikethrough text, appears at Appendix B.
- 10 The Model Member Code of Conduct does not include any sanctions for non-compliance with the Code. CSPL has made recommendations in relation to increased sanctions: these will require Government legislation.
- 11 The key areas of difference between the Council's current Code of Conduct and the new Model Code are:
- (i) The introduction of a new section on bullying and harassment, including a definition of the terms;
 - (ii) Increased content relating to equalities and diversity;
 - (iii) A requirement to declare any gifts and hospitality which were offered and declined;
 - (iv) A requirement to disclose, and not take part in any discussion or vote on a matter where a Councillor has an interest which directly relates to their financial interest or wellbeing (and is not a Disclosable Pecuniary Interest). This could be something that affects the financial interest or wellbeing of a friend, relative or close associate;
 - (v) The new Code is set out as a personal commitment for Councillors to sign up to (rather than 'Dos and Don'ts' as in the Council's current version) and includes words of guidance.
- 12 The following points were made at meetings with Members to discuss the Code of Conduct:
- (i) The importance of Councillors holding themselves and other Councillors to account for their behaviour;
 - (ii) Councillors are required to use their own judgement in relation, for example, to registration of interests, informed by the Code and its guidance: the maxim 'if in doubt, declare it' was discussed. The Monitoring Officer can advise if required;
 - (iii) It would be helpful if the Code were supplemented by further guidance and 'Frequently Asked Questions'. The Local Government

Association is preparing additional guidance: questions raised in the Council will be fed into this process and the subsequent LGA guidance will be shared with all District Councillors and Parish Councils, supplemented by local advice where required;

- (iv) Training on the Code of Conduct is required for all District Councillors: this will be included in the Member induction programme;
 - (v) The need for information and guidance for Parish Councillors to increase understanding of the Code of Conduct and the associated standards regime;
 - (vi) The need for training for Chairs to support them to maintain standards in Committee meetings: this will be included in the District Council Member induction programme;
 - (vii) Support and training to Parish Council Clerks is required: the Monitoring Officer will provide training later in 2021, and continues to provide support to individual councils as required;
 - (viii) The Committee may wish to consider co-opting one or more Parish Councillors to the Standards Committee to assist in promoting and supporting good standards of behaviour in Parish Councils.
- 13 The need for alignment between the Council's Whistleblowing Policy and the Member Code of Conduct was also identified. Whistleblowing is the confidential disclosure of wrong-doing in the workplace, and the Policy applies to all who perform work for the Council including Councillors and Officers. If a concern is raised under this policy relating to Member Conduct, the Monitoring Officer will consider whether the issue is most appropriately dealt with under the Code of Conduct or the Whistleblowing Policy.
- 14 The Committee is recommended to adopt the Model Code in its entirety. There are no financial implications arising from this proposal.

Other options considered

- 15 The Committee could choose to adopt an amended version of the Model Code of Conduct. The Model Code has been subject to extensive national consultation, and at the two member meetings to review the Code there was general support for its adoption.
- 16 The Committee could choose to retain the existing Code of Conduct. This would mean that the Council was not addressing CSPL's recommendations. CSPL also recommends that councils review their Codes of Conduct annually: the Council has not reviewed its Code since 2012. If the Council were to retain the existing Code, the opportunity to strengthen requirements relating to Member behaviour would be missed, and an action within the Annual Governance Statement action plan would not be completed.

Consultation

- 17 Two meetings have been held to review the new Model Code of Conduct: the first, a small group meeting, was attended by six District Councillors

and three Parish Council chairs. The second meeting, to which all District Councillors and Parish Council chairs were invited, was attended by 10 District Councillors and 10 Parish Council chairs.

Key implications

Comments of the Chief Finance Officer

There are no financial implications arising from this report.

Comments of the Head of Legal Services

A Councillor Code of Conduct is required by Section 27 of the Localism Act 2011, however, there is no requirement to adopt the new Model Code. There is value in a consistent approach across the County and for many Parish and Town Councils to adopt the same code.

Equality

The new Model Code of Conduct includes additional wording in relation to equalities and diversity. It includes the commitment

I promote equalities and do not discriminate unlawfully against any person.

and explains Councillors' role in supporting the Council to deliver its obligations under the Equality Act 2010.

Climate change

There are no significant environmental / sustainability implications associated with this report.

Appendices

Appendix 'A' - LGA Model Member Code of Conduct

Appendix 'B' - Tandridge DC Member Code of Conduct with tracked changes

Background papers

None.

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