

From: Ben Watts, General Counsel  
To: The Standards Committee, 9 May 2022  
Subject: Proposed Revisions to the Kent Code of Member Conduct  
Classification: **Unrestricted**

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**Summary:**

The purpose of this report is to ask Members to consider amendments to the Kent Code of Conduct for Members recommended by the Kent Secretaries Group in response to the publication of the LGA Model Code of Conduct.

**Recommendation:**

The Standards Committee is asked to:

- a. Discuss the proposed changes to the Kent Code of Member Conduct; and
- b. Recommend to County Council that the Constitution be amended with the changes agreed by this Committee.

**1. Introduction**

- a) In mid-2020, the Local Government Association (LGA) conducted a consultation into a revision of its Model Code of Conduct for Members. Formally, this was carried out in response to the first recommendation of the Committee on Standards in Public Life's (CSPL) review into 'Local Government Ethical Standards' (published January 2019). More broadly, it forms part of an LGA workstream into 'Civility in Public Life'.
- b) Most of the recommendations in the CSPL report were for central government. The government response is covered in another agenda paper in more detail, but as a result it is not anticipated that there will be significant changes to the legislation underpinning the standards regime in the short term.
- c) This legislation has remained largely the same since 2011. The LGA Model Code is not mandatory and the flexibilities of the Localism Act 2011 remain. It is for the Council, with advice from the Standards Committee, to determine what changes to make.
- d) It needs to be kept in mind that this is a Kent Code and not simply a Kent County Council Code. The majority of Borough/District Councils in Kent have adopted the same code. This helps with consistency when there are many Members who are also Borough/District representatives and makes it clearer to the public to what standards their elected representatives are being held. However, each authority remains responsible for agreeing its own code and in practice, differences are possible.

## 2. Revising the Kent Code in Response to The Model Code

- a) The Standards Committee has discussed the CSPL report and the LGA Model Code previously. At its meeting of 22 February 2021<sup>1</sup>, the Committee considered the differences between the LGA Model Code and the current Kent Code and expressed views as to where changes could be made, and where they were not required.
- b) These views fed into the discussions of a Kent Secretaries working group that was set up to discuss and produce an amended version of the Kent Code for discussion by a formal meeting of the Kent Secretaries.
- c) This draft was presented to a meeting of the Kent Secretaries on 13 September 2021. Further changes were made at this meeting and the text of this agreed draft is contained in Appendix 1. The suggested changes to the current code are shown as track changes. Minor differences between the draft agreed by the Kent Secretaries and the current version as set out in the KCC Constitution are not shown where they are due to differences in layout. All substantive differences are shown.
- d) In addition, the Kent Secretaries are recommending the addition of the word “official” before “capacity” in section 21.49. This change had already been made by KCC on the advice of our Independent Person (agreed by County Council on 12 December 2013). We have therefore already made this change and it is not marked up.
- e) Not all of the suggested changes arose directly from suggestions made by the LGA in their Model Code. Although the legislation underpinning the Code has not changed, there were areas where the content could be updated.
- f) For ease of discussion, the suggested changes are also indicated by letters in the Appendix, and are summarised below:
  - A. 21.37(a) – The words “or body” have been added to section 21.37(a). These were not included in the version of the Kent Code adopted by KCC in 2013. However, they were by other authorities that adopted the same Code. This addition introduces more consistency across the Codes.
  - B. 21.50 - The LGA Model Code recommended including a long list of different types of communication and interaction. The form of words suggested here is simpler and reduces the risk of an unintended gap due to the list missing something. The current Code was adopted prior to the rapid growth in social media and this section recognises this.
  - C. 21.52(a) and (b) – The current Code makes no reference to “harassment”. There are national laws to which Members are subject, and KCC has policies on harassment. However, including it explicit is a symbol of its importance. The additional sub-sections are to help clarify what is meant by both “bullying” and “harassment”.

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<sup>1</sup> <https://democracy.kent.gov.uk/ieListDocuments.aspx?CId=141&MId=8698&Ver=4>

- D. 21.52(f) – This section provides a direct cross-reference between the sections in the Constitution referring to information that is classified as exempt in Committee papers.
- E. 21.53 – The LGA Model Code recommended including a requirement to undertake Code of Conduct training. Rather than mandate it, the approach taken here is to establish the principle that not undertaking training cannot be used as an excuse for breaching the Code.
- F. 21.54 – The LGA Model Code recommended including a requirement to cooperate with any investigation and/or subsequent determination. The Kent Secretaries have included this suggestion here.
- G. 21.73 – While the Seven Principles of Public Life have remained constant, the definitions given to them by the CSPL have been subject to change. While the Seven Principles do not formally form part of the Kent Code, they are referred to (see section 21.32 of the current Code). This additional sentence covers any period where the definitions have been updated by the CSPL but they have not been in the Constitution.
- H. 21.74-80 – The definitions of the Seven Principles of Public Life have been updated with the one given on the CSPL website at the time of drafting.
- I. Current section 21.78 (deleted) – This section was an information footnote added to the KCC Constitution, but it was never part of the Code as adopted by other authorities. This historical background to the CSPL and the Seven Principles is no longer required.

### **3. Next Steps**

- a) The Committee are asked to consider the changes to the Kent Code proposed by the Kent Secretaries Group, in particular whether to endorse, reject, or modify the changes set out in paragraph 2f above.
- b) If the Committee is agreed on these changes, the proposed changes to the Kent Code will then be submitted to full Council for adoption.

### **4. Recommendation:**

The Standards Committee is asked to:

- a. Discuss the proposed changes to the Kent Code of Member Conduct; and
- b. Recommend to County Council that the Constitution be amended with the changes agreed by this Committee.

### **5. Appendices**

Draft Kent Code of Member Conduct showing amendments as recommended by the Kent Secretaries Group

## **6. Background Documents**

The LGA Model Code of Conduct for Members.

<https://democracy.kent.gov.uk/documents/s102331/Appendix%20B%20LGA%20Model%20Code.pdf>

The Kent Code for Members.

<https://democracy.kent.gov.uk/documents/s102332/Appendix%20C%20The%20Kent%20Code.pdf>

## **7. Contact details**

Report Author:

Tristan Godfrey, Senior Governance Manager

03000 411704

[Tristan.godfrey@kent.gov.uk](mailto:Tristan.godfrey@kent.gov.uk)

Relevant Director:

Ben Watts, General Counsel

03000 416814

[benjamin.watts@kent.gov.uk](mailto:benjamin.watts@kent.gov.uk)