

From: Ben Watts, General Counsel

To: The Standards Committee, 31 July 2025

Subject: Proposed Revisions to Arrangements for Dealing with Code of Conduct Complaints

Classification: **Unrestricted**

1. Introduction

- a) On 20 March 2024, this Committee discussed the proposed revisions to the Kent Code of Member Conduct drafted by the Kent Secretaries. The Committee made further amendments to the draft and agreed to recommend to County Council that the Code of Conduct, as amended, be adopted by the Council. This was discussed at the meeting of 23 May 2024.
- b) After the March 2024 meeting of this Committee, there was an agenda item to discuss updated arrangements for handling Code of Member Conduct complaints. The new proposed arrangements were the product of a Kent Secretaries working group. Standards Committee Members were of the view that it was not sufficiently clear as to the differences between the proposals and current arrangements. The item was therefore postponed to the current meeting. As set out in the next section, further information is provided on the nature of the changes being proposed to the current arrangements.
- c) The decision to review the arrangements followed on from the work on updating the Code of Member Conduct. As with the Code, the legislative framework remains essentially the same as previously, but the revision of the Code provided the opportunity to look at the arrangements as well. On 21 September 2021, the Local Government Association produced new guidance on handling Member Code of Conduct Complaints¹. This was also used by the working group to test the current arrangements and make suggested revisions.
- d) Under this Committee's terms of reference, it is responsible for maintaining oversight of the Council's arrangements for dealing with Code of Conduct complaints. This report is asking the Committee to approve the revised arrangements, as set out in the next section.

2. The Arrangements

- a) There are four parts to the arrangements – the overarching document and three annexes. These are:
 - i. Arrangements for Dealing with Code of Conduct Complaints under The Localism Act 2011.
 - ii. Annex 1 – Procedure on Receipt of a Complaints.
 - iii. Annex 2 – Procedure for Investigating the Complaint.
 - iv. Annex 3 – Hearing Panel Procedure.

¹ <https://www.local.gov.uk/publications/guidance-member-model-code-conduct-complaints-handling>

- b) Collectively these documents are a guide for the public, this Committee, and everyone involved with a complaint at any level. The current arrangements are set out on the KCC website in the section providing information on making a complaint about a County Councillor.²

3. Proposed Changes

- a) The changes being proposed to the arrangements as a result of the Kent Secretaries working group are marked up as amendments to the current ones in the appendix.
- b) What is not shown are local customisations. Firstly, Kent County Council does not have the role Borough/City/District Councils do in connection with Parish Councils and complaints. These references have been removed. Secondly, a few terms have been changed to be consistent with common KCC practice (particularly 'Member' for 'Councillor' and 'section' for 'paragraph' when making cross-references internal to the documents). These do not constitute substantive changes in their own right.
- c) Many of the changes are minor or not substantive in nature – changes in layout for example, and the addition or removal of some small sections of wording to make the document clearer and more accessible.
- d) The substantive changes are set out in the following section. Showing the changes has affected the layout of some sections. These will be corrected before being published.

4. Revisions

- a) **The roles of Monitoring Officer and Independent Person.** Throughout the document, the respective roles of the Monitoring Officer and Independent Person are clarified. In line with the legislation, it is set out where there is a requirement for the Independent Person to be consulted and where they may be consulted by relevant parties.
- b) **Anonymous complaints.** The current process has a bar on accepting anonymous complaints. In the updated LGA guidance states the following – “Authorities should not normally allow anonymous complaints as that would be against the principles of transparency and fairness and make matters much more difficult to investigate. However, there may be exceptional compelling reasons why an anonymous complaint could be accepted without detriment to the process and where the allegation can be evidenced without reference to the complainant.”
 - i. The proposed changes build on this principle and set out a framework for how a complainants request for anonymity will be managed. An summary is set out in section 6 of the overview document and the bulk of the text on this issue in section 5 in Annex 1. Consequential changes are proposed elsewhere to make the document consistent with the proposed framework.

² See <https://www.kent.gov.uk/about-the-council/complaints-and-compliments#tab-11,13>

- c) **Timetable changes.** Reflecting on the practical demands of managing a complaints process, the time allowed for some of the stages has been amended:
- i. 15 working days are given as the time to acknowledge receipt of a complaint. It is currently 5.
 - ii. 30 working days are given to appoint an investigating officer once the decision has been made to appoint. It is currently 10.
 - iii. 60 working days are given for informing the complainant of the results of the legal and local jurisdiction tests from the date of receipt of the complaint. It is currently 10.
 - iv. within 90 working days of receipt of the complaint, the Monitoring Officer will notify the Complainant, Subject Member of their decision and reasons for how they intend to proceed with the complaint. It is currently 20.
 - v. Investigating Officer will notify the Subject Member and the Complainant of their appointment within 20 working days of being appointed. It is currently 10.
 - vi. 10 days is currently given for publishing the decision of a Hearing Panel. No timeline is included in the revised arrangements, but the presumption will be that it is done as soon as possible.
- d) **DPI wording.** In the overview document, there is clearer wording on Declarations of Pecuniary Interest (DPIs) in section 5.
- e) **Discontinuations and deferrals.** In the overview document, there is a new section (14) setting out in brief the circumstances in which action on a complaint may be discontinued, deferred or referred back to the Monitoring Officer. This is picked up in new section 4.5 in Annex 1 and new sections 3 and 4 in Annex 2. While these are all options under the current process, there is a lack of detail around them.
- f) **Legal jurisdiction test.** In Annex 1, the legal jurisdiction test is made clearer (section 2).
- g) **Local assessment criteria test.** The wording in 2.3(d) of Annex 1 in the local assessment criteria test has been amended to exclude generic malicious and relatively minor complaints.
- h) **New breaches.** In Annex 2, a new section (2) has been added to make it explicit what the procedure will be if evidence of new breaches of the Kent Code are uncovered during the course of an investigation. In sum, the investigation can only consider the original complaint.
- i) **Confidentiality.** In Annex 2, a new section (7) covers confidentiality and the legal requirements concerning handling information.
- j) **Subject member representatives.** Annex 3 amends the section (section 3) on the Subject member's right to be accompanied by a representative by clarifying that the Hearing Panel have the right to ask the representative to leave if they are disruptive.
- k) **Aggravating and mitigating factors.** Sections 10.4 and 10.5 are new to Annex 3 and set out examples of aggravating and mitigating factors which the Hearing Panel may take into account when considering whether to apply sanctions.

- l) **Sanctions.** Section 12 of Annex 3 refreshes the examples list of possible sanctions.
- m) **Decision summary.** Section 13 of Annex 3 sets out more clearly what any decision summary should include.
- n) **No right of appeal.** Section 14 of Annex 3 adds a reminder that there is no right of appeal against a decision.

5. Next Steps

- a) Following approval by this Committee, the relevant section on the website giving information on Member complaints will be updated.
- b) The Committee is also being asked to delegate to the Monitoring Officer the implementation of the new arrangements. This will ensure a smooth transition and will ensure that the information is available on the website prior to coming into effect.

6. Recommendation:

The Standards Committee is asked to:

- a. Approve the revised arrangements for handling Member complaints; and
- b. Delegate to the Monitoring Officer the authority to take the necessary actions to implement the new arrangements.

7. Appendices

- Appendix – Proposed changes to the arrangements for handling Member complaints. Includes:
 - Arrangements for Dealing with Code of Conduct Complaints under The Localism Act 2011.
 - Annex 1 – Procedure on Receipt of a Complaints.
 - Annex 2 – Procedure for Investigating the Complaint.
 - Annex 3 – Hearing Panel Procedure.

8. Background Documents

None.

9. Report Author and Relevant Director

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