

AMENDMENTS TO THE COUNCILLOR CODE OF CONDUCT

Council	8 December 2022
Report Author	Democratic Services Manager
Portfolio Holder	Leader of the Council, Cllr Ash Ashbee
Status	For Recommendation
Classification:	Unrestricted
Ward:	All

Executive Summary:

TDC's Councillor Code of Conduct is based on the "Kent Code of Conduct". This is a model code of conduct that is broadly similar across the County in order to maintain a similar level of standards amongst Councillors. The Local Government Association has published a new model code of conduct and the Kent Secretaries group who are responsible for creating and maintaining the Kent Code of Conduct have undertaken an exercise to update and incorporate the new model code with the Kent code of conduct.

This report outlines the changes proposed and allows the Full Council to review the recommendations from the Constitutional Review Working Party and the Standards Committee regarding the proposed changes.

Recommendation(s):

To agree to the changes to the Council's Councillor code of conduct taking into consideration the recommendations from both the Constitutional Review Working Party and the Standards Committee.

Corporate Implications

Financial and Value for Money

There are no financial implications arising directly from this report.

Legal

The legal implications are outlined throughout the report.

Risk Management

Not having an up to date Code of Conduct is a risk, as new ways of communication emerge, particularly through the increased use of social media it is important that the code of conduct governing member behaviour keeps up with such changes. Without such changes behaviour that could be seen to be below acceptable standards could potentially not be within the scope of the code. In addition, regular updating allows the code of conduct to be

incrementally adjusted to take into account situations or occasions where the code has not covered certain issues or sets of circumstances.

Corporate

An up to date and robust Councillor code of conduct is important as it allows for clear rules for Councillors to adhere to and gives clear indications to the wider public on what constitutes acceptable behaviour from their elected representatives.

Equality Act 2010 & Public Sector Equality Duty

Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken.

The aims of the Duty are:

- (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act,
- (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and
- (iii) foster good relations between people who share a protected characteristic and people who do not share it.

Protected characteristics: age, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.

This report relates to the following aims of the equality duty: -

- To eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act.
- To advance equality of opportunity between people who share a protected characteristic and people who do not share it
- To foster good relations between people who share a protected characteristic and people who do not share it.

Corporate Priorities

This report relates to the following corporate priorities: -

- Communities

1.0 Introduction and Background

1.1 TDC's Councillor Code of Conduct is based on the "Kent Code of Conduct". This is a model code of conduct that is broadly similar across the County in order to maintain a similar level of standards amongst Councillors. The Kent Code was created and is maintained by the Kent Secretaries group, which consists of all of the Council Monitoring Officers from all the Districts in Kent as well as KCC. The Kent code was originally based on the original Model Code of conduct created after the introduction of the Localism Act 2011.

1.2 The Local Government Association produced a new model code of conduct for Councillors in 2021, the LGA Model Councillor Code of Conduct was the product of a significant independent piece of work that was commissioned by the LGA. The LGA hopes that the Model Code will be helpful to local authorities in the area of ethical standards and enhance a more consistent approach nationally. As a result the Kent Secretaries undertook a review of the Kent Code as well as the accompanying procedures for dealing with complaints and holding hearings.

1.3 This report presents the amended code of conduct, for consideration by the Standards Committee and for the Panel to make any recommendations to the Full Council.

2.0 Councillor Code of Conduct

2.1 The main changes to the existing code are outlined in the table below and are highlighted in the amended code as set out at Annex 1 to the report.

Provision	Current TDC code of Conduct	Amended code of conduct	Reasoning
Change to Preamble	“The Code applies to you as a Member or Co-opted Member of the Thanet District Council when acting, claiming to act or giving the impression that you are acting in that capacity”	The Code of Conduct that follows is adopted under section 27(2) of the Localism Act 2011.	When the code applies is covered within the paragraph on scope and is therefore not needed again at this point.
Taking part in discussions	None	Take any step in relation to a matter being dealt with by you acting alone in the course of discharging a function of the Authority, except a step for the purpose of enabling the matter to be dealt with otherwise than by you.	This change expands out when to declare an interest as previously theoretically you could take an individual decision without needing to declare an interest as there was no vote on the matter.
Other significant interests	None	(a) may reasonably be regarded as affecting the financial position of yourself and/or an Associated Person to a greater extent than the majority of: (i) other council tax payers, ratepayers or inhabitants of the	Amended so that OSI's are now only for things that affect you as a Councillor more so than others. This should lessen the number of OSI's that would be declared.

		<p>electoral division or ward, as the case may be, affected by the decision; or</p> <p>(ii) (in other cases) other council tax payers, ratepayers or inhabitants of the Authority's area;</p>	
Social Media	None	This Code applies to all forms of communication and interaction including social media.	The previous code was not explicitly clear on whether social media use was included.
Definition of bullying	None	The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Their website contains examples; harassment will have the meaning set out in The Protection from Harassment Act 1997 and other relevant legislation.	There was no previous definition of bullying. This led to some types of behaviour not being classed as bullying within the code.
Code of conduct training and use of non training as a defence	None	<p>(3) Where you have not undertaken training relating to conduct matters, you shall not be able to use this as a defence where a complaint has been made.</p> <p>(4) You must cooperate with any Code of Conduct investigation and/or determination</p>	Previously some councillors (not in this authority) had used not having training as a defence during standards hearings.
Limit on Gifts and Hospitality	You must, before the end of 28 days beginning with the day of receipt/acceptance, notify the Monitoring Officer of any gift, benefit or hospitality with an	You must, before the end of 28 days beginning with the day of receipt/acceptance, notify the Monitoring	TDC has always traditionally had a lower declaration limit than other Councils in Kent.

	estimated value of £25 or more, or a series of gifts, benefits and hospitality from the same or an associated source, with an estimated cumulative value of £25 or more,	Officer of any gift, benefit or hospitality with an estimated value of £100 or more, or a series of gifts, benefits and hospitality from the same or an associated source, with an estimated cumulative value of £100 or more,	Members may wish to continue with the lower amount.
Definition of Antisemitism	On the 27 February 2020 the Council adopted the following definition of antisemitism: Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities	None	TDC included a definition of antisemitism in its code of conduct. It is not included in the new code. Members may wish to retain the definition in the amended code.

2.2 The Kent Code created by the Kent Secretaries group is based on the LGA model code of conduct; that code was the product of an extensive review informed by experienced external consultants Hoey Ainscough Associates. There was extensive consultation with elected members from across the country during the development of LGA code (including with representatives from TDC).

2.3 The LGA will also produce periodic guidance to assist local authorities with the interpretation of their Model Code of Conduct. The guidance is likely to be more directly relevant and easily integrated if we have adopted the Kent Code, which is based on the LGA Model Code of Conduct.

2.4 Using the Kent Code allows the council to access the resources of the Kent secretaries group when making amendments such as the ones suggested above, rather than solely falling on the Monitoring Officer of TDC.

3.0 Review by Constitutional Review Working Party.

3.1 The Constitutional Review Working Party reviewed this report at its meeting on 1st September. It made the following recommendation to the Standards Committee:

“To recommend the changes to the Code of Conduct as outlined in the report with the following amendments:

- To set the level of gift and hospitality declaration to £100.
- To retain the definition of anti-semitism from the current TDC code of conduct.”

4.0 Review by the Standards Committee

- 4.1 The standards Committee reviewed this report and the recommendations from the CRWP as mentioned above on 10 November. It made the following recommendations to Council:

“The Standards Committee accepted the recommendations from the CRWP, excluding the proposed change made to the Limit on Gifts and Hospitality and that it should remain at £25.”

5.0 Options

- 5.1 The Council can agree with the recommendations from the CRWP and Standards or suggest further amendments to those proposed in the report. These could be in addition to those suggested or amendments to the suggested changes. There is consensus from both Panels on all matters in the report with the exception of the level at which gifts and hospitality is declared, this could be at £25 as per the Standards Committee’s view or at £100 as per the view of CRWP.
- 5.2 The Council could agree to not making any amendments to the existing code of conduct, however this is not recommended as it would mean that TDC had moved away from the wider kent code and the LGA model code of conduct.

6.0 Next Steps

- 6.1 Full Council makes the final decisions on amendments to the Council’s Constitution.

Contact Officer: Nicholas Hughes (Committee Services Manager)

Reporting to: Sameera Khan (Interim Head of Legal & Monitoring Officer)

Annex List

Annex 1 - Amended members code of conduct.

Background Papers

None

Corporate Consultation

Finance: Chris Blundell (Acting Deputy Chief Executive)

Legal: Sameera Khan (Interim Head of Legal & Monitoring Officer)