



Leicester
City Council

WARDS AFFECTED

All

FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:

STANDARDS COMMITTEE

25th February 2025

RESPONDING TO THE GOVERNMENT'S CONSULTATION ON THE FUTURE OF THE STANDARDS REGIME

Report of the Monitoring Officer

1. PURPOSE OF REPORT

- 1.1. On 18th December 2024 the Ministry of Housing, Communities and Local Government launched a consultation seeking views on proposals to introduce measures to strengthen the standards and conduct regime for local authorities in England. This report prompts Standards Committee to explore the proposals being consulted upon, and invites feedback.

2. RECOMMENDATIONS

- 2.1. For Standards Committee to note and respond to the consultation

3. REPORT

Main themes

3.1.1. These are as follows:

- Introducing a mandatory minimum prescribed Code of Conduct – establishing higher minimum standards of expected behaviour covering issues such as discrimination, bullying, use of social media and use of authority resources, and other issues not featuring in the current minimum requirements and providing clarity for the public on the consistent baseline of ethical behaviour they have a right to expect.
- Requiring local authorities to have a Standards Committee - to ensure all Local Authorities have formal, transparent processes to uphold and promote standards.
- Requiring local authorities to publish a summary of code of conduct allegations, any investigations and decisions – to enhance transparency, subject to data protections obligations and with strong mechanisms to protect victims' identities.
- Requiring the completion of investigations if a member stands down – ensuring there is a full record of any code of conduct breaches during a member's term of office.
- Empowering individuals affected by councillor misconduct to come forward – ensuring those affected by misconduct are supported and are confident to come forward.
- Introducing the power of suspension with related safeguards (including proposals regarding the length of suspension; withholding allowances and premises and facilities bans, interim suspension; disqualification for multiple breaches and gross misconduct, appeals and potential for a national appeals body) - to allow Local Authorities to enforce their own standards and provide a meaningful sanction for dealing with more serious examples of member misconduct and to curb the risk of “repeat offending” signalling that poor behaviour will not be tolerated.

Question 1

(simply asks about the status of the consultee)

Question 2

2.1 The introduction of a mandatory minimum prescribed code of conduct for local authorities in England Currently, the Localism Act 2011 only requires a code consistent with the 7 Nolan principles of standards in public life. New regulations would provide a flexible vehicle for prescribing and amending a code, which would be consistent throughout England, and government indicates these regulations would be subject to their own consultation on the detail. One of the criticisms made of current arrangements is that having different codes, results in different expectations of conduct, unsatisfactory cover and/or different interpretations of key concepts such as discrimination and bullying. As far back as 2019, the Committee on Standards in Public Life, in Local Government Ethical Standards, highlighted the importance of properly addressing important areas of behaviour such as social media use and bullying and harassment and stated that the variation in quality and quantity of codes leads to confusion for the public and councillors (especially those sitting on more than one authority). The complication for questions 2 and 3 is that as any deviation/additions recreate the problems of inconsistency countrywide. However, some flexibility for question 3 might be valuable if councillors believe there might be genuinely different local circumstances that need addressing and as long as the core prescribed part is unaffected.

Do you think the government should prescribe a mandatory minimum code of conduct for local authorities in England?

- Yes
- No
- If no, why not? [Free text box]

Question 3

If yes, do you agree there should be scope for local authorities to add to a mandatory minimum code of conduct to reflect specific local challenges?

- Yes – it is important that local authorities have flexibility to add to a prescribed code
- No – a prescribed code should be uniform across the country
- Unsure

Question 4

Do you think the government should set out a code of conduct requirement for members to cooperate with investigations into code breaches?

- Yes
- No
- Unsure

Question 5

Standards Committees

2.2 A requirement that all principal authorities convene formal standards committees to make decisions on code of conduct breaches, and publish the outcomes of all formal investigations. Currently, the investigation process includes either a principal local authority full council or Standards Committee decision, following consultation with an independent person.

Does your local authority currently maintain a standards committee?

- Yes
- No
- Any further comments [free text box]

Question 6

Should all principal authorities be required to form a standards committee?

- Yes
- No
- Any further comments [free text box]

Question 7

In most principal authorities, code of conduct complaints are typically submitted in the first instance to the local authority Monitoring Officer to triage, before referring a case for full investigation. Should all alleged code of conduct breaches which are referred for investigation be heard by the relevant principal authority's standards committee?

- Yes, decisions should only be heard by standards committees

- No, local authorities should have discretion to allow decisions to be taken by full council
- Unsure

Question 8

Do you agree that the Independent Person and co-opted members should be given voting rights?

- Yes – this is important for ensuring objectivity
- No – only elected members of the council in question should have voting rights
- Unsure

Question 9

Should standards committees be chaired by the Independent Person?

- Yes
- No
- Unsure

Question 10

If you have further views on ensuring fairness and objectivity and reducing incidences of vexatious complaints, please use the free text box below.

[Free text box]

Question 11

Publishing investigation outcomes

2.3 A new transparency provision, requiring local authorities (subject to data protection) to publish summaries of code allegations, investigations and decisions (not including the complainant's identity) One of the questions that arises is whether publication where councillors are found not guilty would expose vexatious complaints and aid their reputation or the opposite.

Should local authorities be required to publish annually a list of allegations of code of conduct breaches, and any investigation outcomes?

- Yes - the public should have full access to all allegations and investigation outcomes
- No - only cases in which a member is found guilty of wrongdoing should be published
- Other views – text box

Question 12

Requiring the completion of investigations if a member stands down

2.4 A new accountability and transparency requirement for investigations to be completed if a member stands down Currently councillors can avoid being investigated and held to account by resigning their position, leaving no investigation or public record of their breaches.

Should investigations into the conduct of members who stand down before a decision continue to their conclusion, and the findings be published?

- Yes
- No
- Unsure

Empowering individuals affected by councillor misconduct to come forward

Question 13

If responding as a local authority, what is the average number of complaints against elected members that you receive over a 12-month period? [Number box]

Question 13a

For the above, where possible, please provide a breakdown for complaints made by officers, other elected members, the public, or any other source:

- Complaints made by officers [Number box]
- Complaints made by other elected members [Number box]
- Complaints made by the public [Number box]
- Complaints made by any other source [Number box]

Question 14

If you currently work, or have worked, within a local authority, have you ever been the victim of (or witnessed) an instance of misconduct by an elected member and felt that you could not come forward? Please give reasons if you feel comfortable doing so.

- Yes
- No
- [Free text box]

Question 15

If you are an elected member, have you ever been subject to a code of conduct complaint? If so, did you feel you received appropriate support to engage with the investigation?

- Yes
- No
- [Free text box]

Question 16

If you did come forward as a victim or witness, what support did you receive, and from whom? Is there additional support you would have liked to receive?

[Free text box]

Question 17

In your view, what measures would help to ensure that people who are victims of, or witness, serious councillor misconduct feel comfortable coming forward and raising a complaint?

[Free text box]

Question 18

Introducing the power of suspension with related safeguards

2.6 The introduction of the power with safeguards for all local authorities (including combined authorities) to suspend councillors found in serious breach of their code of conduct. Currently there are no suspension provisions (although in previous ethical conduct regimes similar sanctions did exist) and sanctions are limited to barring

members from key positions, requiring apologies or training, and public criticism. It is not currently possible to suspend councillors for the serious matters which would bar councillors from standing for office, such as being on the sex offenders register. The reintroduction of such sanctions might counter the problem of the standards regime being seen as a 'toothless tiger' given that removing councillors from committees or representative roles and requiring training 'may prove ineffective in the cases of more serious and disruptive misconduct' particularly repeat offenders. The maximum period of 6 months suspension would apply to the most serious cases but even then councillors would be protected from losing their position as a councillor for failing to attend meetings for 6 months

Do you think local authorities should be given the power to suspend elected members for serious code of conduct breaches?

- Yes – authorities should be given the power to suspend members
- No – authorities should not be given the power to suspend members
- Unsure

Question 19

Do you think that it is appropriate for a standards committee to have the power to suspend members, or should this be the role of an independent body?

- Yes - the decision to suspend for serious code of conduct breaches should be for the standards committee
- No - a decision to suspend should be referred to an independent body
- Unsure
- [Free text box]

Question 20

Where it is deemed that suspension is an appropriate response to a code of conduct breach, should local authorities be required to nominate an alternative point of contact for constituents during their absence?

- Yes – councils should be required to ensure that constituents have an alternative point of contact during a councillor's suspension
- No – it should be for individual councils to determine their own arrangements for managing constituents' representation during a period of councillor suspension
- Unsure

The length of suspension

Question 21

If the government reintroduced the power of suspension do you think there should be a maximum length of suspension?

- Yes – the government should set a maximum length of suspension of 6 months
- Yes – however the government should set a different maximum length (in months)
[Number box]
- No – I do not think the government should set a maximum length of suspension
- Unsure

Question 22

If yes, how frequently do you consider councils would be likely to make use of the maximum length of suspension?

- Infrequently – likely to be applied only to the most egregious code of conduct breaches
- Frequently – likely to be applied in most cases, with some exceptions for less serious breaches
- Almost always – likely to be the default length of suspension for code of conduct breaches
- Unsure

Question 23

Withholding allowances and premises and facilities bans

2.7 New provisions for withholding allowances where serious breaches have occurred and for imposing premises bans or withdrawing facilities These would be discretionary powers and a deterrent from unethical behaviour by holding councillors financially accountable for their actions and ensures values for money for the public. Withholding allowances and/or banning councillors from local authority premises and from using Council equipment or facilities ensures they do not 'misuse resources or continue egregious behaviour' and are sanctions that can be applied with or without a suspension having been imposed

Should local authorities have the power to withhold allowances from suspended councillors in cases where they deem it appropriate?

- Yes – councils should have the option to withhold allowances from suspended councillors
- No – suspended councillors should continue to receive allowances
- Unsure

Question 24

Do you think it should be put beyond doubt that local authorities have the power to ban suspended councillors from council premises and to withdraw the use of council facilities in cases where they deem it appropriate?

- Yes – premises and facilities bans are an important tool in tackling serious conduct issues
- No – suspended councillors should still be able to use council premises and facilities
- Unsure

Question 25

Do you agree that the power to withhold members' allowances and to implement premises and facilities bans should also be standalone sanctions in their own right?

- Yes
- No
- Unsure

Question 26

Interim suspension

2.8 A new provision for interim suspension for the most serious and complex cases that may involve police investigations Under this additional power, councillors would not be permitted to participate in any council business or meetings and premises and/or facilities bans could also be applied. However, there is no assumption of guilt and any allowances would still be paid until there is a serious breach of the code of conduct or criminal offence. The interim suspension would be for a maximum of 3 months, reviewable for extension. The standards committee may reduce any suspension later applied by the length of any interim suspension period

Do you think the power to suspend councillors on an interim basis pending the outcome of an investigation would be an appropriate measure?

- Yes, powers to suspend on an interim basis would be necessary
- No, interim suspension would not be necessary
- Any further comments [free text box]

Question 27

Do you agree that local authorities should have the power to impose premises and facilities bans on councillors who are suspended on an interim basis?

- Yes - the option to institute premises and facilities bans whilst serious misconduct cases are investigated is important
- No - members whose investigations are ongoing should retain access to council premises and facilities
- Unsure

Question 28

Do you think councils should be able to impose an interim suspension for any period of time they deem fit?

- Yes
- No
- Any further comments [free text box]

Question 29

Do you agree that an interim suspension should initially be for up to a maximum of 3 months, and then subject to review?

- Yes
- No
- Any further comments [free text box]

Question 30

If following a 3-month review of an interim suspension, a standards committee decided to extend, do you think there should be safeguards to ensure a period of interim extension is not allowed to run on unchecked?

- Yes – there should be safeguards

- No – councils will know the details of individual cases and should be trusted to act responsibly

Question 30a

If you answered yes to above question, what safeguards do you think might be needed to ensure that unlimited suspension is not misused?

[Free text box]

Question 31

Disqualification for multiple breaches and gross misconduct

2.9 A new category of disqualification for gross misconduct and those subject to a sanction of suspension more than once in a 5-year period. Currently there are no suspension or disqualification provisions despite the need for meaningful sanctions and deterrents. Effectively the decision to impose a second suspension would be a decision to disqualify a councillor. Little commentary is provided in the consultation in relation to the option of immediate disqualification for gross misconduct. While there are extreme cases where this might be appropriate, there must be suitable safeguards (see below).

Do you think councillors should be disqualified if subject to suspension more than once?

- Yes – twice within a 5-year period should result in disqualification for 5 years
- Yes – but for a different length of time and/or within a different timeframe (in years)

[Number boxes]

- No - the power to suspend members whenever they breach codes of conduct is sufficient
- Any other comments [free text box]

Question 32

Is there a case for immediate disqualification for gross misconduct, for example in instances of theft or physical violence impacting the safety of other members and/or officers, provided there has been an investigation of the incident and the member has had a chance to respond before a decision is made?

- Yes

- No
- Unsure
- [Free text box]

Question 33

Appeals

2.10 A new appeals process Here, important safeguards are proposed including a right to appeal once against a decision to suspend. The process is relatively rapid with the councillor having to request an appeal within 5 working days of the decision to suspend, and the appeal being held within 28 working days of the request. Mirroring previous regimes (the disbanded Standards Board for England), an independent national body could deal with the most serious standards cases and appeals and create consistency countrywide or a localised arrangement could be introduced. Other questions arise about extending appeal rights to complainants when there is a decision not to investigate or where an allegation is not upheld and whether any created national body should hear all appeals.

Should members have the right to appeal a decision to suspend them?

- Yes - it is right that any member issued with a sanction of suspension can appeal the decision
- No – a council’s decision following consideration of an investigation should be final
- Unsure

Question 34

Should suspended members have to make their appeal within a set timeframe?

- Yes – within 5 days of the decision is appropriate to ensure an efficient process
- Yes – but within a different length of time (in days) [Number box]
- No – there should be no time limit for appealing a decision

Question 35

Do you consider that a complainant should have a right of appeal when a decision is taken not to investigate their complaint?

- Yes

- No
- Unsure

Question 36

Do you consider that a complainant should have a right of appeal when an allegation of misconduct is not upheld?

- Yes
- No
- Unsure

Question 37

If you answered yes to either of the previous two questions, please use the free text box below to share views on what you think is the most suitable route of appeal for either or both situations.

[Free text box]

Potential for a national appeals body

Question 38

Do you think there is a need for an external national body to hear appeals?

- Yes – an external appeals body would help to uphold impartiality
- No – appeals cases should be heard by an internal panel
- Any further comments [free text box]

Question 39

If you think there is a need for an external national appeals body, do you think it should:

- Be limited to hearing elected member appeals
- Be limited to hearing claimant appeals
- Both of the above should be in scope
- Please explain your answer [free text box]