

Submitted to Strengthening the standards and conduct framework for local authorities in England

Submitted on 2025-02-24 16:52:37

Scope of this consultation

Ministerial foreword

Background: Standards and Conduct framework and sanctions arrangements

Who we would like to hear from

Personal data

About you

- 1 In what capacity are you responding to this consultation?

A local government sector body

Please state which organisation this is a response from:

Organisation:

Society of Local Council Clerks

Strengthening the Standards and Conduct framework

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

Yes

If no, why not?:

Outside the constraints of this question, we wish to assert the case that the LGA Model Code has been developed with wide support for councils of all size and has been widely adopted in the local council sector. It also has a natural home within the LGA, which took a broad view of involving other organisations in its development. The same approach should be used to maintain and evolve the Code. There is a danger that any local flexibility will lead to divergence in the codes adopted [See below]. This is particularly problematic for Monitoring Officers and Standards Committees in principal councils which will, otherwise, have to monitor and apply diverse codes from local councils within their remit.

- 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?

No – a prescribed code should be uniform across the country

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

Yes

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- 5 Does your local authority currently maintain a standards committee?

Not Answered

Add any further comments:

NA

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

Yes

Add any further comments:

- 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

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

Yes – this is important for ensuring objectivity

- 9 Should standards committees be chaired by the Independent Person?

Unsure

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

Add your comments:

Fairness and objectivity should be judged in the context of who is bringing the complaint, whether the alleged breach has a material and tangible impact on the rights of the person bringing the complaint and particularly, in the case of a member of staff of a town or parish council, the legal restrictions on any alternative forms of investigation or redress.

The Ledbury judgement has had the effect of stifling any local resolution of a grievance or complaint raised by a member of staff in a town or parish council against one of its councillors. The only available channel is via a Code of Conduct complaint. Bringing forward a complaint in the local council sector, where the member of staff may be the sole employee, requires understanding of the complexities of the sector and of the relationships between councils and staff in local councils. It should be presumed that this is a high bar to cross and that such complaints need to be considered in the context of the impact of the alleged behaviour on the employment rights of the individual bringing forward the complaint.

A statutory definition of a vexatious complaint as one that is made without merit and is intended to annoy, harass, or cause disruption is required. Monitoring Officers should be empowered to dismiss vexatious complaints which are

unreasonable, repetitive, or burdensome. Strengthening the Standards and Conduct framework

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

Not Answered

Other views (add your comments):

The public should have full access to anonymised summaries of all allegations and investigation outcomes and, in addition, to published details of all cases in which a member is found to be in breach of the code.

Strengthening the Standards and Conduct framework

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

Yes

Strengthening the Standards and Conduct framework

- 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 of complaints:

- 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:

Complaints made by other elected members:

Complaints made by the public:

Complaints made by any other source:

- 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?

Not Answered

Please give reasons if you feel comfortable doing so.:

In 2023, the Society of Local Council Clerks (SLCC) conducted a survey of our membership. The survey asked whether members feel safe to speak up about concerns with 62% responding “yes” and 38% responding “no”. The survey asked those who had responded “no”, what they believed were the reasons for this response. 37% said their negative response was due to a lack of proper sanctions for poor behaviour which in turn can mean that councillors and staff feel it is not worth raising an issue.

- 15 If you are an elected member, have you ever been subject to a code of conduct complaint?

Not Answered

If so, did you feel you received appropriate support to engage with the investigation?:

- 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?

Add your comments:

- 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?

Add your comments:

There needs to be a mechanism which allows a complaint to be made in outline and explored with the Monitoring Officer to ensure that all the relevant evidence is presented as part of the complaint before the member who is the subject of the complaint is given the opportunity to respond. Once a response is received, the complainant should be allowed a right of reply, before the Monitoring Officer applies a decision on whether the complaint should proceed to a formal investigation.

An effective system requires sensible timeframes – there should be no arbitrary limitations on the time to bring a complaint. This should be considered against the meeting cycles of parish councils, which may only meet every eight weeks in some cases – If a complaint is to be made by the parish council as a body, that would require a formal decision of the council. There should be a nationally mandated, standard approach to how complaints are handled by Monitoring Officers.

Introducing the power of suspension with related safeguards

- 18 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

- 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 Add your comments:

For Question 20 [BELOW]

It is not clear that 'Yes' and 'No' are mutually exclusive. 'An alternative point of contact' may still be subject to councils 'own arrangements'.

For many parish councils, single member wards are less frequent. It should be acknowledged that, in some cases, politics may be a factor in single member wards, which are not aligned with the controlling group or in two (or more) member wards with members of differing political affiliation.

For Question 21 [BELOW]

It should be made clear that suspension for six months should not, in itself, disqualify a member under s85 of LGA 1972.

- 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

Introducing the power of suspension with related safeguards

- 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

If you think the government should set a different maximum length, what should this be, in months? :

- 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

Introducing the power of suspension with related safeguards

- 23 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

- 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

- 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

Introducing the power of suspension with related safeguards

- 26 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 Any further comments:

This should not be routine and should apply only to the most serious allegations of misconduct.

- 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

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

No

Any further comments:

Unlimited interim suspension, that might exceed any sanction awarded for a proven breach, would be unjust.

- 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

Any further comments:

- 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

- 30a If you answered yes to above question, what safeguards do you think might be needed to ensure that unlimited suspension is not misused?

Add your comments:

There should be a right of review by an independent body (if this affects the local council sector – there should be sector representation on that independent body) if any interim suspension reached the six months (or any other figure) which represents the maximum suspension for a proven breach of the code of conduct.

Introducing the power of suspension with related safeguards

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

Yes – but for a different length of time and/or within a different timeframe (please specify)

If you think councillors should be disqualified if subject to suspension more than once over a period different to 5 years, what should this be, in years? : 4

If you think the government should set a different disqualification period, what should this be, in years? : 4

Any other comments:

The trigger should be the cumulative length of suspension in a qualifying period rather than the absolute number of suspensions. More guidance would be needed to ensure that suspensions carried a tariff, for consistency, and that 'short' suspensions for less serious breaches were not used as a trigger for disqualification.

Four years ties these provisions to the electoral cycle.

- 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

Any other comments:

Introducing the power of suspension with related safeguards

- 33 33 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

- 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

If you think the government should set a different appeals timeframe, what should this be, in days?:

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

Yes

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

Yes

- 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.

Add your comments:

In the case of Question 35, an appeal against a decision not to investigate should be to the next level – i.e. to the Independent Person if the decision was made by the Monitoring Officer alone or to the Standards Committee if the decision was taken by the Monitoring Officer in consultation with the Independent Person.

For any decision affecting a local council, there should be local council representation in the appeals process (as per Wales).

In the case of Question 36, an appeal should be on the grounds of a failure to follow proper process or reasonableness of outcome. It should be made to an independent body.

For any decision affecting a local council, there should be local council representation in the appeals process (as per Wales).

Introducing the power of suspension with related safeguards

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 Any further comments:

Routine appeals may be considered by an internal panel, but there is scope for an external appeals body where the case is complicated by local factors including, but not limited to, political considerations or otherwise by the potential for compromised impartiality in the body making the original decision.

For any appeal decision affecting a local council, there should be local council representation in the appeals process (as per Wales).

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

Both of the above should be in scope Please explain your answer:

It is in the interests of natural justice that an appeal mechanism is available to all parties.

Public Sector Equality Duty

40 In your view, would the proposed reforms to the local government standards and conduct framework particularly benefit or disadvantage individuals with protected characteristics, for example those with disabilities or caring responsibilities?

It would benefit individuals with protected characteristics

Please use the text box below to make any further comment on this question: