



## **COPRPORATE GOVERNANCE COMMITTEE – 24 JANUARY 2025**

### **CONSULTATION ON STRENGTHENING THE STANDARDS AND CONDUCT FRAMEWORK FOR LOCAL AUTHORITIES IN ENGLAND**

#### **REPORT OF THE DIRECTOR OF LAW AND GOVERNANCE**

##### **Purpose of the Report**

1. The purpose of this report is to set out a proposed response from the County Council to the Government consultation on strengthening the standards and conduct framework for local authorities in England

##### **Policy Framework and Previous Decisions**

2. The Terms of Reference for the Corporate Governance Committee, which were approved by this Committee at its meeting on 6 December 2024, include responsibility for standards, conduct and complaints.
3. Detailed arrangements for dealing with allegations against Members were considered and agreed by this Committee on 24 September 2012. These were subsequently reviewed and updated by the Director, following consultation with the Chairman and Spokespersons of this Committee, in September 2017. These arrangements were again reviewed in 2021 and updated in 2023.

##### **Background**

4. The Government is seeking views on introducing measures to strengthen the standards and conduct regime in England and ensuring consistency of approach amongst councils investigating serious breaches of their member codes of conduct, including the introduction of the power of suspension.
5. The consultation opened on 18 December 2024 and will close on 26 February 2025.
6. The Government states in the foreword to the consultation that it wants to celebrate the positive power of public service and, in doing so, it wants to give individual authorities appropriate and proportionate means to deal with misconduct effectively and decisively when it does occur. It also wants to ensure that anyone can rightly feel confident about raising an issue under the code of conduct whether it impacts them personally and/or is a code of conduct breach that brings the reputation of the council into disrepute.

7. The Government's ambition is to create a rigorous standards and conduct framework that will actively contribute to ensuring that local government throughout the country is fit, legal, and decent. With this in mind, this consultation seeks views on a range of proposals to give local leaders the tools they need to establish and maintain a strong and ethical public service and democratic culture, and the people they serve the confidence that local democracy works for them.

### **Questions and Proposed Response**

<b>Question</b>	<b>Available responses</b>	<b>Proposed Response and free text</b>
Do you think the government should prescribe a mandatory minimum code of conduct for local authorities in England.	Yes No If no, why not?	Yes
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	Yes – it is important that local authorities have flexibility to add to a prescribed code.
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	Yes
Does your local authority currently maintain a standards committee?	Yes No	Yes – but it is not a standalone committee. The majority of the functions of the Standards Committee were incorporated into the Council's Corporate Governance Committee when the Localism Act came into force.

Question	Available responses	Proposed Response and free text
Should all principal authorities be required to form a standards committee?	Yes No	No, the local authority should be free to decide whether a standalone standards committee is necessary.
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	Yes, all alleged code of conduct breaches which are referred for investigation by the Monitoring Officer should be heard by the relevant principal authority's standards committee (or committee undertaking that function).
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	No – only elected members of the council in question should have voting rights <i>[Independent Members on the Corporate Governance Committee do not have voting rights.]</i>
Should standards committees be chaired by the Independent Person?	Yes No Unsure	No <i>[In line with response that Independent Members should not have voting rights.]</i>
If you have further views on ensuring fairness and objectivity and reducing incidences of vexatious complaints, please use the free text box below.		Any revised code of conduct should include guidance on enabling local authorities to deal with vexatious complainants.

Question	Available responses	Proposed Response and free text
Should local authorities be required to publish annually a list of allegations of code of conduct breaches, and any investigation outcomes?	<p>Yes - the public should have full access to all allegations and investigation outcomes</p> <p>No - only cases in which a member is found guilty of wrongdoing should be published</p>	No - only cases in which a member is found guilty of wrongdoing should be published, but the Monitoring Officer should have discretion and be encouraged to report informally to the Chair of the standards committee (or committee undertaking that function) on all allegations on an anonymous basis.
Should investigations into the conduct of members who stand down before a decision continue to their conclusion, and the findings be published?	<p>Yes</p> <p>No</p> <p>Unsure</p>	The investigation should be concluded and subject to the same rules as all other investigations in relation to publication.
If responding as a local authority, what is the average number of complaints against elected members that you receive over a 12-month period?		Over the last 4 years the average number of complaints has been 6 per annum. This includes all complaints including those found to be out of scope and those which, if proven, would be unlikely to be a breach of the code.
For the above, where possible, please provide a breakdown for complaints made by officers, other elected members, the public, or any other source:		<p>Over the last four years:</p> <p>Complaints made by officers: Nil</p> <p>Complaints made by other elected members: 3</p> <p>Complaints made by the public: 18</p> <p>Complaints made by any other source: 4 (2 by a former member, 1 by a member of another local authority and 1 by an officer of another local authority).</p>

Question	Available responses	Proposed Response and free text
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?		N/A
If you are an elected member, have you ever been subject to a code of conduct complaint?		N/A
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?		N/A
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?		Ensuring appropriate support is available to victims/ witnesses and allowing anonymity in limited circumstances where appropriate.
Do you think local authorities should be given the power to suspend elected members for serious code of conduct breaches?	<p>Yes – authorities should be given the power to suspend members</p> <p>No – authorities should not be given the power to suspend members</p> <p>Unsure</p>	Yes – authorities should be given the power to suspend members for serious breaches of the Code or for repeat offenders.
Do you think that it is appropriate for a standards committee to have the power to suspend members, or should this be	Yes - the decision to suspend for serious code of conduct breaches should be for the standards committee	Yes - the decision to suspend for serious code of conduct breaches or for repeat offenders should be for the standards committee

Question	Available responses	Proposed Response and free text
the role of an independent body?	<p>No - a decision to suspend should be referred to an independent body</p> <p>Unsure</p>	(or committee undertaking that function).
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?	<p>Yes – councils should be required to ensure that constituents have an alternative point of contact during a councillor’s suspension</p> <p>No – it should be for individual councils to determine their own arrangements for managing constituents’ representation during a period of councillor suspension</p> <p>Unsure</p>	No – it should be for individual councils to determine their own arrangements for managing constituents’ representation during a period of councillor suspension.
If the government reintroduced the power of suspension do you think there should be a maximum length of suspension?	<p>Yes – the government should set a maximum length of suspension of 6 months</p> <p>Yes – however the government should set a different maximum length (please specify)</p> <p>No – I do not think the government should set a maximum length of suspension</p> <p>Unsure</p>	<p>Yes – the government should set a maximum length of suspension of 6 months for the most serious breaches.</p> <p><i>[Non-attendance at council meetings during a period of suspension would be disregarded for the purposes of the 6 month disqualification rule.]</i></p>
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	Infrequently – likely to be applied only to the most egregious code of conduct breaches.

Question	Available responses	Proposed Response and free text
	<p>Frequently – likely to be applied in most cases, with some exceptions for less serious breaches</p> <p>Almost always – likely to be the default length of suspension for code of conduct breaches</p> <p>Unsure</p>	
Should local authorities have the power to withhold allowances from suspended councillors in cases where they deem it appropriate?	<p>Yes – councils should have the option to withhold allowances from suspended councillors</p> <p>No – suspended councillors should continue to receive allowances</p> <p>Unsure</p>	Yes – councils should have the option to withhold allowances from suspended councillors.
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	<p>Yes – premises and facilities bans are an important tool in tackling serious conduct issues</p> <p>No – suspended councillors should still be able to use council premises and facilities</p> <p>Unsure</p>	Yes – premises and facilities bans are an important tool in tackling serious conduct issues.
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?	<p>Yes</p> <p>No</p> <p>Unsure</p>	Yes
Do you think the power to suspend councillors on an interim basis pending the outcome of an	Yes, powers to suspend on an interim basis would be necessary	Yes, powers to suspend on an interim basis would be necessary.

Question	Available responses	Proposed Response and free text
investigation would be an appropriate measure?	No, interim suspension would not be necessary	There should be a presumption of innocence until fact finding and adjudication is complete and so an interim suspension should not be seen as indicative of 'guilt' but a neutral act in the most serious of cases whilst the investigation is completed. It should be rarely used, only in the most exceptional circumstances, and directed by the standards committee (or committee undertaking that function).
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?	<p>Yes - the option to institute premises and facilities bans whilst serious misconduct cases are investigated is important</p> <p>No - members whose investigations are ongoing should retain access to council premises and facilities</p> <p>Unsure</p>	Yes - the option to institute premises and facilities bans whilst serious misconduct cases are investigated is important in serious cases where required to protect others
Do you think councils should be able to impose an interim suspension for any period of time they deem fit?	Yes No	No. this should be time limited, subject to review by the standards committee.
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	Yes
If following a 3-month review of an interim suspension, a standards committee decided to	Yes – there should be safeguards	Yes – there should be safeguards.



Question	Available responses	Proposed Response and free text
extend, do you think there should be safeguards to ensure a period of interim extension is not allowed to run on unchecked?	No – councils will know the details of individual cases and should be trusted to act responsibly	
If you answered yes to above question, what safeguards do you think might be needed to ensure that unlimited suspension is not misused?		Fortnightly review by the Monitoring Officer in consultation with the Chair of the standards committee and monthly review by the standards committee (or committee undertaking that function).
Do you think councillors should be disqualified if subject to suspension more than once?	<p>Yes – twice within a 5-year period should result in disqualification for 5 years</p> <p>Yes – but for a different length of time and/or within a different timeframe (please specify)</p> <p>No - the power to suspend members whenever they breach codes of conduct is sufficient.</p>	No - the power to suspend members in appropriate cases whenever they breach the code of conduct is sufficient.
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?	<p>Yes</p> <p>No</p> <p>Unsure</p>	No
Should members have the right to appeal a decision to suspend them?	Yes - it is right that any member issued with a	Yes - it is right that any member issued with a

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	<p>sanction of suspension can appeal the decision</p> <p>No – a council's decision following consideration of an investigation should be final</p> <p>Unsure</p>	<p>sanction of suspension can appeal the decision</p>
<p>Should suspended members have to make their appeal within a set timeframe?</p>	<p>Yes – within 5 days of the decision is appropriate to ensure an efficient process</p> <p>Yes – but within a different length of time (please specify)</p> <p>No – there should be no time limit for appealing a decision</p>	<p>Yes – within 10 working days of the decision is appropriate to ensure an efficient process</p>
<p>Do you consider that a complainant should have a right of appeal when a decision is taken not to investigate their complaint?</p>	<p>Yes No Unsure</p>	<p>No <i>[This would be onerous and time consuming for the Monitoring Officer, who currently consults with Independent Members in reaching a view as to whether a complaint should be investigated. This should be considered a sufficient safeguard.]</i></p>
<p>Do you consider that a complainant should have a right of appeal when an allegation of misconduct is not upheld?</p>	<p>Yes No Unsure</p>	<p>Yes <i>[On the basis that if a member has the right to appeal the outcome of an investigation, the complainant should have the same right.]</i></p>
<p>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</p>		<p>Independent review by a suitably qualified individual.</p>

Question	Available responses	Proposed Response and free text
route of appeal for either or both situations.		
Do you think there is a need for an external national body to hear appeals?	<p>Yes – an external appeals body would help to uphold impartiality</p> <p>No – appeals cases should be heard by an internal panel</p>	<p>No – appeals cases should be heard by an internal panel or elected members unconnected with the original decision.</p> <p>It is considered more appropriate as a principle that there be adjudication by peers.</p> <p>The previous Standards Regime involved the Standards Board for England, which was widely criticised for unacceptable delays in dealing with complaints. Unless fully resourced to deal with complex investigations, and provided with a clear and complete legislative framework, there is a risk that that such problems will recur.</p>
<p>If you think there is a need for an external national appeals body, do you think it should:</p> <ul style="list-style-type: none"> <li>• Be limited to hearing elected member appeals</li> <li>• Be limited to hearing claimant appeals</li> <li>• Both of the above should be in scope</li> </ul>		N/A
In your view, would the proposed reforms to the local government standards and conduct framework particularly	It would benefit individuals with protected characteristics	It would benefit individuals with protected characteristics

Question	Available responses	Proposed Response and free text
benefit or disadvantage individuals with protected characteristics, for example those with disabilities or caring responsibilities?	It would disadvantage individuals with protected characteristics  Neither	We would expect an equality impact assessment to be carried out, but the reforms would mean that where an elected member breaches the Code of Conduct in terms of not promoting equalities or unlawfully discriminating against a person, the complainant would have a clearer and more effective way of having their complaint heard and acted upon.

### **Resource Implications**

8. There are no specific financial implications arising from this report.

### **Recommendations**

9. The Committee is recommended to approve the response to the consultation for submission to the Government.

### **Background Papers**

The Government's consultation document - <https://consult.communities.gov.uk/local-government-standards-and-conduct/strengthening-the-standards-and-conduct-framework/>

Report to the Corporate Governance Committee on 6 December 2024 - 'Terms of Reference'

<https://democracy.leics.gov.uk/ieListDocuments.aspx?CId=434&MId=7724&Ver=4>

Report to the Corporate Governance Committee on 24 September 2012 - 'Arrangements for dealing with Member Conduct Complaints'

<https://democracy.leics.gov.uk/ieListDocuments.aspx?CId=434&MId=3554&Ver=4>

### **Circulation under the Local Issues Alert Procedure**

None

### **Equality Implications**

10. Section 149 of the Equality Act 2010 requires the Council to have regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010;
- advance equality of opportunity between people who share a protected characteristic and those who do not;
- foster good relations between people who share a protected characteristic and those who do not.

The response to the consultation indicates that the proposed reforms would benefit individuals with protected characteristics. The County Council expects that the Government will conduct an equalities impact assessment on the proposed reforms, but is of the view that they would provide a clearer and more effective process for addressing complaints where an elected member breaches the Code of Conduct by not promoting equalities or unlawfully discriminating against a person.

### **Human Right Implications**

11. There are no human rights implications arising from the recommendations in this report.

### **Officers to contact**

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