



Appendix 2 – Proposed Response to Consultation on Standards

The following consultation questions have been issued by the Ministry of Housing, Communities and Local Government [Strengthening the standards and conduct framework for local authorities in England - GOV.UK](#)

The questions are below. The responses are largely yes or no but some questions are requesting commentary. All proposed responses are highlighted in **bold**.

Consultation Document questions

Question 1

Please tick all that apply - are you responding to this consultation as:

a) an elected member – if so please indicate which local authority type(s) you serve on

- Town or Parish Council
- District or Borough Council
- Unitary Authority
- County Council
- Combined Authority / Combined County Authority
- Fire and Rescue Authority
- Police and Crime Panel
- Other local authority type - please state

b) a council officer – if so please indicate which local authority type

- Town or Parish Council
- District or Borough Council
- Unitary Authority
- County Council
- Combined Authority / Combined County Authority
- Fire and Rescue Authority
- Police and Crime Panel
- Other local authority type - please state

c) a council body – if so please indicate which local authority type

- Town or Parish Council
- District or Borough Council
- **Unitary Authority**
- County Council
- Combined Authority / Combined County Authority
- Fire and Rescue Authority
- Police and Crime Panel
- Other local authority type - please state

d) a member of the public

e) a local government sector body – please state

Question 2

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

- **Yes**
- No
- If no, why not? [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

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.

The current system of triaging out vexatious complaints by the MO should continue as it allows an officer with some knowledge of issues concerning a particular event or council to make a balanced judgement.

Members of the committee should be from those members familiar with governance such as a Council's Audit & Governance Committee.

That political balance should not apply to the Standards Committee and that no political group shall appoint more than 1 member to the Standards Committee.

Further, if there is to be an independent body involved then there needs to be a consideration of the Ombudsmans more recent inclusion of investigating standards. Where complaints have no merit and have been triaged out, there is sometimes a referral to the Ombudsman. If the government wishes a third party to have any oversight then it should be one independent body – we recommend that its terms of reference are limited to (i) whether the process has been followed (ii) whether the sanction applied is proportionate to the nature of the breach (iii) any disqualification decision (if disqualification is deemed a sanction by government). We do not believe that the independent body should act as an appeal body to the underlying facts that led to a finding of a breach – this would inevitably just lead to every breach being appealed.

Question 11

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

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

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?

48 (2023/24)

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 **2**
- Complaints made by other elected members **17**
- Complaints made by the public **29**
- Complaints made by any other source **0**

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]

We have witnessed and experienced this (not at this authority). It tended to be in the context of a council culture that required review. Fear of adverse employment consequences including likely lack of support from corporate management was at the root on all occasions.

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?

There is current no support provided under current processes for the complainant or officers involved in an investigation process. The only support for the subject member is to offer the services as an independent person. However, there is no statutory requirement for the council to have more than 1 independent person so potentially you have the situation where the IP is supporting the investigation and the member being investigated. We'd recommend that each authority should have at least 2 independent persons to avoid such a conflict.

Our experience is that there has been a very low incidence of requests for support from complainants (officers ordinarily will have support from the MO (on procedural matters) and their managers(pastoral support)) and only 1 request from a member of the public (from the experience of officers assisting the Council's response). There has been a growing incidence of subject councillors raising issues such as mental health issues during an investigation but usually they then do not wish to seek the services of the independent person (a different IP to that advising the Council during an investigation).

We understand that some local councils are members of associations such as National Association of Local Council that are able to provide their councillors with support services.

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?

Insofar as we are aware, complaints from members and residents does not appear to be of issue. Complaints from officers are more delicate but this is not something that we think that the government can legislate over beyond that already contained within a standard code of conduct (the subject member not to intervene with witnesses and to comply with the investigation). This is due to the culture of the organisation to support officers and its members during a difficult period of time.

Question 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**
- 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
- **If there is not the full range of sanctions available to the Standards Committee then it would be a logistical complication as we would need to determine what the actual sanction would likely be before deciding what would be the relevant body to determine it. This would be before the actual facts have been determined.**

We would see that the role of an independent body would be consider any appeals against the actual sanction applied where the sanction is a decision to suspend for greater than 1 month. The role of independent body should not be reconsidering the underlying facts that led to the determination of a breach. The independent body can only determine any suspension sanction over 1 month in period. The independent body should have the full right to increase (to the maximum) or reduce any suspension (to the 1 month stipulated by the Standards Committee). The independent body should not have the power to overturn the original decision but to determine the correct sanction. This could be a paper exercise.

The suspension should also be expressed in a way where suspension could be total or in part. In part, could include from certain responsibilities, roles or duties. For example, not being on a planning committee where the breach relates to planning.

If there is a suspension on an interim basis (during any investigation) as proposed by Q26 then any period of interim suspension should be counted as 'time spent' as part of any final suspension decision.

In relation to the length of suspension, this Council would support a longer term of 12 months but with the ability reduce this on completion of other sanctions (for example making an apology and training). The Council agrees that any sanction of greater than 1 month can be appealed to the independent body.

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

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) 12 months**
- 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

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

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: there should be an immediate power to suspend where necessary similar to that in employment law but also the ability to part suspend from certain duties or actions. For example such as (i) protect the investigation and witnesses (ii) where the complaint is so serious that the duties cannot be performed or (iii) where there is a significant public interest. Part actions would be such as “not to contact certain individuals during the suspension” for example.**

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 **the suspension should only be for the period until the investigation has been performed and any decision made or until the issue necessitating the suspension has concluded (for example, after an interview has taken place). Similar to the sanctions, a suspension could be whole or in part as determined by the nature of the complaint. For example, suspension from a planning panel where the complaint relates to an ongoing planning issue.**

If there is a requirement to suspend then such a decision often needs to be made quickly and in advance of the full facts being known (or fully investigated). Therefore, the decision should be made by MO in consultation with Chair of Standards Committee. Decisions about council functions cannot be delegated to individual members unless this is included with the legislation – if so then the decision could be made by the Chair of Standards Committee.

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 **there should not be any arbitrary timelines placed on this. There should be a continued duty to review and any suspension should end at the appropriate time. If a decision is taken by the Monitoring Officer then there could be some merit in an appeal being made to the Chair of Standards Committee or the Monitoring Officer in consultation with the Chair of Standards Committee.**

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?

The independent body could also be an appeal body where a suspension during an investigation has gone on for more than 3 months.

Question 31

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 the code of conduct is sufficient**
- Any other comments: **We are of the view that if a member is persistently being suspended then the impact of such will be felt by their residents and other ward members/group members. It would be for those parties to determine during election whether they wish for the status quo to continue.**

A better solution maybe something similar to the recall petition for members of parliament. For example, if there are suspensions of greater than 6 months in total (whether single period or cumulative total) within any election cycle then 15% of the residents can call for a by-election.

We believe that our suggestion that Councils are given local discretion of suspension of up to 12 months (but with the ability to reduce this where other sanction such as apologies and training have been completed) is sufficient sanctions.

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
- **There is a case but this should be a decision of the independent body. We suggest that if a Standards Committee wishes to suspend for the maximum period then the matter must be referred to the independent body to determine any sanction. Also if the subject member appeals any decision of the Standards Committee (where a suspension of greater of 1 month has been imposed) then the independent body can increase the suspension but also a disqualification.**

Question 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**
- 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) 10 working days**
- 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.

Previously the LGSCO did not investigate complaints against councillor complaints process. More recently they have now decided to investigate this. If there is to be an appeal then it seems that this is already included in the current mind of the LGSCO. However, if there is going to be an independent appeal body, then there is now 3 bodies involved including the Council. If the government is going to legislate for any appeal body for a complainant, then we'd suggest that the independent body should be appropriate 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: **The independent body should have a limited role and should not be a re-creation of the Standards Board for England which was too slow. The responsibility for the independent body should be limited to (i) an appeal body for any sanctions greater than 1 month suspension imposed by a standards committee (ii) to consider a disqualification where a standards committee has imposed a maximum sanction of 12 months, (iii) to consider any procedural complaints and (iv) (if needed) to act as an appeal body for any complainant where a decision has been made not to investigate a complaint.**

The role of the independent body should to consider the sanction imposed and not as an appeal body for the facts.

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 **The independent body should have a limited role and should not be a re-creation of the Standards Board for England which was too slow. The responsibility for the independent body should be limited to (i) an appeal body for any sanctions greater than 1 month suspension imposed by a standards committee (ii) to consider a disqualification where a standards committee has imposed a maximum sanction of 12 months, (iii) to consider any**

procedural complaints and (iv) (if needed) to act as an appeal body for any complainant where a decision has been made not to investigate a complaint.

The role of the independent body should not act as an appeal body for the facts.

Question 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?

Please tick an option below:

- **it would benefit individuals with protected characteristics**
- it would disadvantage individuals with protected characteristics
- neither

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

Equalities requirements are often inadvertently seen as being of lower priority to some other requirements. We consider that a lack of understanding of or a disregard for equalities could lead to the very worst type of breach – where currently there are no meaningful sanctions.