



Subject: **Strengthening the standards and conduct framework for local authorities in England**

Meeting: Full Council

Date: 28 January 2025

Officer: Shona Bendix, Town Clerk

**NOT CONFIDENTIAL**

## **1. Introduction**

1.1 The consultation on [Strengthening the standards and conduct framework for local authorities in England](#) has a deadline of **11:59pm on 26 February 2025**.

1.2 This consultation seeks views on introducing measures to strengthen the standards and conduct regime in England and ensure consistency of approach amongst councils investigating serious breaches of their member codes of conduct, including the introduction of the power of suspension. The scope includes principal authorities and town and parish councils (local councils). The consultation is open to responses from Lowestoft Town Council and individual 'elected members' and officers.

1.3 The National Association of Local Councils (NALC) has long pressed for strengthening revisions to the standards regime and is now itself consulting local councils to inform its own response and this survey ([Strengthening the standards and conduct framework consultation - sector survey](#)), which closes at **23:45 on 2 February 2025**, includes the areas covered by the government consultation.

1.4 Government considers that the current ethical conduct framework is in certain key aspects 'ineffectual, inconsistently applied, and lacking in adequate powers' and is committed to making local government 'fit, legal and decent' to support 'national renewal', strong service delivery, and decision-making on critical local services. To achieve this, local elected councillors must be trustworthy, uphold the highest ethical standards and act in the best interests of the communities served. Government intends to create a regime where anyone can feel confident about raising an issue under the code of conduct whether it impacts them personally and/or is a breach that brings the council's reputation into disrepute.

1.5 While they refer to 'elected members' throughout the consultation, it is assumed that all councillors including those co-opted and those elected unopposed, plus non-councillor voting members of committees, will be within scope of the Code and eligible to reply to the consultation. This is potentially just a shorthand description and an attempt to clarify the meaning of 'members'.

## **2. Details**

The consultation questions (noting question 1 is respondent details only) are in italics below:

**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.

**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? [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

## **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.

**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. [free text box]

**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.

**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

**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.

**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

**2.5 These questions are fact-finding to determine how victims of breaches such as bullying and harassment, can be supported to come forward.** Please note in question 13 (and 14) reference is to a principal local authority; parish and town councils are not the relevant recipients of complaints.

**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]*

**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.

**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
- [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

**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

**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.

**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

**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.

**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 [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]

**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).

**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 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]

**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.

**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) [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]

**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 [*There should be equality. Councillors need to have an avenue to appeal given the potential reputational damage etc., and* ]

**2.11 A question on the public sector equality duty** Given that this consultation is designed to enhance ethical behaviour and reduce bullying and harassment, it seems likely to benefit rather than disadvantage those with protected characteristics.

**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.

### **3. Recommendations**

3.1 To consider and respond to the consultation by the deadline specified, with referral and delegated authority specified, if required.

3.2 To delegate authority to the Town Clerk, to respond to the NALC consultation in line with any agreed Council response to the government consultation, if agreed in time.

3.3 To include in the comments reference to the need to clarify whether the scope extends beyond 'elected members'.