

REPORT REFERENCE NO.	AGC/25/5
MEETING	AUDIT & GOVERNANCE COMMITTEE
DATE OF MEETING	20 JANUARY 2025
SUBJECT OF REPORT	GOVERNMENT CONSULTATION ON STRENGTHENING THE STANDARDS AND CONDUCT FRAMEWORK FOR LOCAL AUTHORITIES IN ENGLAND
LEAD OFFICER	Clerk to the Authority (& Monitoring Officer)
RECOMMENDATIONS	<i>That, following consultation with the Chair, the Clerk to the Authority (& Monitoring Officer) be authorised to submit a response on behalf of the Committee by the deadline of 26 February 2025.</i>
EXECUTIVE SUMMARY	This report gives an overview of the standards and conduct regime in place currently together with details of the Government's proposals to reform this. The report includes the questions posed by Government as part of the consultation exercise, the response to which has to be submitted by 26 January 2025. This is before the next meeting of the Committee, thus it is requested that, following consultation with the Chair, the Clerk to the Authority (& Monitoring Officer) be authorised to respond on behalf of the Committee.
RESOURCE IMPLICATIONS	Nil.
EQUALITY RISKS AND BENEFITS ANALYSIS	Not applicable.
APPENDICES	None.
BACKGROUND PAPERS	The Localism Act 2011 (the Act) The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (the Regulations)

1. GENERAL INTRODUCTION

- 1.1. The Government issued a consultation document on 18 December 2024 seeking views on introducing a mandatory minimum code of conduct for local authorities in England. The consultation also introduces measures to strengthen the standards and conduct regime in England to ensure consistency of approach amongst councils investigating serious breaches of their member codes of conduct, including the introduction of the power of suspension.
- 1.2. The previous review, which culminated in the introduction of a new ethical standards framework under the Localism Act 2011, removed the application of sanctions for Members found to have breached the Code of Conduct. The Ministry of Housing, Communities and Local Government (MHCLG) is consulting on introducing strengthened sanctions for local authority code of conduct breaches in England.
- 1.3. A Fire and Rescue Authority is included within the scope of this consultation as a “relevant authority”.

2. LEGISLATIVE BACKGROUND

- 2.1. The Localism Act 2011 introduced a new ethical standards regime for all local authorities. The former regime under the Local Government Act 2000 provided, amongst other things, for a Model Code of Conduct which applied across all authorities together with an independent external body – the Standards Board for England – which administered arrangements for dealing with complaints that Members had failed to follow the Code of Conduct. The Standards Board for England was able, in cases where breaches of the Model Code were established, to impose a range of sanctions up to and including suspensions.
- 2.2. The Localism Act 2011 (“the Act”) saw the old regime completely abolished, with local authorities placed under a duty to promote and maintain high standards of conduct by Members and co-opted members of the authority (section 27) and in so doing to:
 - adopt a code dealing with the conduct expected of authority Members and co-opted members when acting in that capacity (Section 27(2) of the Act);
 - ensure that the code so adopted is, when viewed as a whole, consistent with the seven “Nolan” principles of public life (Section 28(1));
 - include provision in the code of registering and disclosing pecuniary and other interests (Section 28(2));
 - have in place arrangements to investigate and make decisions on allegations of breaches of the code of conduct adopted (Section 28(6));
 - appoint one or more “independent persons” whose views:
 - must be taken into account by the authority before it makes a decision on an allegation which has been investigated (Section 28(7)(a)); and
 - may be sought by the authority in other circumstances (to be determined by the authority in question) and by a Member or co-opted member subject to an allegation (Section 28(7)(b));

- maintain and publish on its website a register detailing for each Member and co-opted member (including the spouse or civil partner of the Member or co-opted Member or anyone with whom the Member or co-opted member is living either as husband or wife or as if they were civil partners) a register of disclosable pecuniary interests and any other interests as determined by the authority (Sections 29 and 30).

- 2.3. Section 31 of the Act requires all Members and co-opted members with a disclosable pecuniary interest to declare this interest at meetings when matters where the interest exists are being discussed and not to participate in the debate or vote on such matters. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (“the Regulations”), made under Section 30 of the Act, identifies disclosable pecuniary interests that must be both registered and declared at meetings. Section 34 of the Act makes failure to register and/or declare a disclosable pecuniary interest an offence which may only be instituted by the Director of Public Prosecutions and which is punishable, on summary conviction, of a fine not exceeding level 5 on the standard scale (£5,000 if offence committed before 13 March 2015 but unlimited after this date).
- 2.4. The 2011 Act removed the ability for Members to be suspended or disqualified for proven breaches of the Code of Conduct. Consequently, sanctions currently available to local authorities (including this Authority) include public censure, apology, training, removal from committee and/or outside body responsibilities and withdrawal of access to facilities and resources.
- 2.5. Other than the requirements of Section 28, there are no prescriptions in the Act either in relation to the contents of the code of conduct to be adopted by an authority or the nature of arrangements for dealing with allegations of non-compliance with the code.

3. APPLICATION TO THIS AUTHORITY

- 3.1. As required by the Act, this Authority adopted a Code of Conduct and procedures for dealing with alleged breaches of the Code in July 2012. These have undergone a number of revisions over the years taking account specifically of an external report on local government ethical standards published in 2019 by the Committee on Standards in Public Life and recommendations contained therein.

Code of Conduct

- 3.2. The Authority’s current Code of Conduct is published both on the website and the Service intranet. Since initial publication, revisions have included:
- (a). in June 2019, to include revisions reflecting two of the best practice recommendations for local authorities made by the Committee on Standards in Public Life following its review of local government ethical standards. It should be noted here that the current Code now aligns fully with the best practice recommendations for local authorities as set out in the Committee on Standards in Public Life report;

- (b). in June 2021. This was largely a reformatting exercise to align the Code with the Model Code issued by the Local Government Association. In this respect, it should be noted that
 - production of a Model Code by the Local Government Association was a specific recommendation by the Committee on Standards in Public Life; and
- (c). in December 2021, to reflect a change in wording for the descriptor on the Leadership principle of the Nolan principles, to emphasise treating others with respect, as recommended by the Committee on Standards in Public Life.

4. GOVERNMENT CONSULTATION ON STRENGTHENING THE STANDARDS AND CONDUCT FRAMEWORK

- 4.1. The government proposes to legislate for the introduction of a mandatory minimum code of conduct which would seek to ensure a higher minimum standard of consistency in setting out the behaviours expected of elected members. The government will likely set out the mandatory code in regulations to allow flexibility to review and amend in future, this will also provide the opportunity for further consultation on the detail.
- 4.2. A prescribed model code which covers important issues such as discrimination, bullying, and harassment, social media use, public conduct when claiming to represent the council, and use of authority resources could help to uphold consistently high standards of public service in councils across the country and convey the privileged position of public office. It could also provide clarity for the public on the consistent baseline of ethical behaviour they have a right to expect.
- 4.3. The consultation lasts for 10 weeks with responses due back by 26 February 2025 which is before the next meeting of the Committee. This report sets out the main areas covered within this consultation for consideration. The government is seeking views on a number of questions. The full consultation document and questions can be found here: [Strengthening the standards and conduct framework for local authorities in England - GOV.UK](#)
- 4.4. The main areas for strengthening highlighted within the consultation are set out within the paragraphs below.

5. STANDARDS COMMITTEES

- 5.1. Currently, there is no requirement for local authorities to constitute a formal standards committee. The only legal requirement is for local authorities to have in place 'arrangements' to investigate and make decisions on allegations of misconduct.

- 5.2. The government believes that all principal authorities should be required to convene a standards committee. Formal standards committees would support consistency in the handling of misconduct allegations, applying the same standards and procedures to all cases and providing a formal route to swiftly identify and address vexatious complainants. Furthermore, having a formal standards committee in place could support the development of expertise in handling allegations of misconduct, leading to more informed decision-making. Removing the scope for less formal and more ad hoc arrangements would also enhance transparency and demonstrate to the public that standards and conduct issues will always be dealt with in a structured and consistent way.
- 5.3. This section of the consultation seeks views on two specific proposals to enhance the fairness and objectivity of the standards committee process. Firstly, it considers whether standards committee membership would be required to include at least one Independent Person, as well as (where applicable) at least one co-opted member from a parish or town council. Secondly, it seeks views on whether standards committees should be chaired by the Independent Person.

6. PUBLISHING INVESTIGATION OUTCOMES

- 6.1. To enhance transparency, local authorities should, subject to data protection obligations, be required to publish a summary of code of conduct allegations, and any investigations and decisions. This will be accompanied with strong mechanisms to protect victims' identity to ensure complainants are not dissuaded from coming forward for fear of being identified,
- 6.2. There may be a range of views on this, as publishing the outcome of an investigation that proves there is no case to answer could still be considered damaging to the reputation of the individuals concerned, or it could be considered as helpful in exposing instances of petty and vexatious complaints.
- 6.3. In circumstances where a member stands down during a live code of conduct investigation, councils should be required to conclude that investigation and publish the findings. The government is proposing this measure to ensure that, whilst the member in question will no longer be in office and therefore subject to any council sanction, for the purposes of accountability and transparency there will still be full record of any code of conduct breaches during their term of office.

7. INTRODUCING THE POWER OF SUSPENSION WITH RELATED SAFEGUARDS

- 7.1. The government believes that local authorities should have the power to suspend councillors for serious code of conduct breaches for a maximum of 6 months, with the option to withhold allowances and institute premises and facilities bans where deemed appropriate. This section of the consultation explores these proposed provisions in greater detail.

- 7.2. The Committee on Standards in Public Life recommended in their 2019 Local Government Ethical Standards (CSPL) report that the maximum length of suspension, without allowances, should be 6 months and the government agrees with this approach. The intent of this proposal would be that non-attendance at council meetings during a period of suspension would be disregarded for the purposes of section 85 of the Local Government Act 1972, which states that a councillor ceases to be a member of the local authority if they fail to attend council meetings for 6 consecutive months.
- 7.3. The government believes that suspension for the full 6 months should be reserved for only the most serious breaches of the code of conduct, and considers that there should be no minimum length of suspension to facilitate the proportionate application of this strengthened sanction.
- 7.4. Giving councils the discretion to withhold allowances from members who have been suspended for serious code of conduct breaches in cases where they feel it is appropriate to do so could act as a further deterrent against unethical behaviour. Holding councillors financially accountable during suspensions also reflects a commitment to ethical governance, the highest standards of public service, and value for money for local residents.
- 7.5. Some investigations into serious code of conduct breaches may be complex and take time to conclude, and there may be circumstances when the misconduct that has led to the allegation is subsequently referred to the police to investigate. In such cases, the government proposes that there should be an additional power to impose interim suspensions whilst and until a serious or complex case under investigation is resolved.
- 7.6. A member subject to an interim suspension would not be permitted to participate in any council business or meetings, with an option to include a premises and facilities ban.
- 7.7. The government considers that members should continue to receive allowances whilst on interim suspension and until an investigation proves beyond doubt that a serious code of conduct breach has occurred or a criminal investigation concludes. The decision to impose an interim suspension would not represent a pre-judgement of the validity of an allegation.
- 7.8. Interim suspensions should initially be for up to a maximum of 3 months. After the expiry of an initial interim suspension period, the relevant council's standards committee should review the case to decide whether it is in the public interest to extend.
- 7.9. As appropriate, the period of time spent on interim suspension may be deducted from the period of suspension a standards committee imposes.

8. DISQUALIFICATION FOR MULTIPLE BREACHES AND GROSS MISCONDUCT

- 8.1. When councillors repeatedly breach codes of conduct, it undermines the integrity of the council and erodes public confidence. To curb the risk of repeat offending and continued misconduct once councillors return from a suspension, the government considers that it may be beneficial to introduce disqualification for a period of 5 years for those members for whom the sanction of suspension is invoked on more than one occasion within a 5-year period.
- 8.2. This measure underlines the government's view that the sanction of suspension should only be used in the most serious code of conduct breaches, because in effect a decision to suspend more than once in a 5-year period would be a decision to disqualify an elected member. However, we consider this measure would enable councils to signal in the strongest terms that repeated instances of misconduct will not be tolerated and would act as a strong deterrent against the worst kind of behaviours becoming embedded.
- 8.3. Currently a person is disqualified if they have been convicted of any offence and have received a sentence of imprisonment (suspended or not) for a period of 3 months or more (without the option of a fine) in the 5-year period before the relevant election. Disqualification also covers sexual offences, even if they do not result in a custodial or suspended sentence.
- 8.4. The government proposes that:
- A right of appeal be introduced for any member subject to a decision to suspend them.
 - Members should only be able to appeal any given decision to suspend them once.
 - An appeal should be invoked within 5 working days of the notification of suspension; and
 - Following receipt of a request for appeal, arrangements should be made to conduct the appeal hearing within 28 working days.
- 8.5. The government believes that were the sanction of suspension to be introduced (and potentially disqualification if a decision to suspend occurs a second time within a 5-year period) it would be essential for such a punitive measure to be underpinned by a fair appeals process.
- 8.6. A right of appeal would allow members to challenge decisions that they believe are unjust or disproportionate and provides a safeguard to ensure that the sanction of suspension is applied fairly and consistently.
- 8.7. The government considers that it would be appropriate to either create a national body, or to vest the appeals function in an existing appropriate national body, and views on the merits of that are sought at questions 38 and 39 of the consultation.

8.8. There is a need to consider whether appeals panels should be in-house within local authorities, or whether it is right that this responsibility sits with an independent national body. Whereas an in-house appeals process would potentially enable quicker resolutions by virtue of a smaller caseload, empowering a national body to oversee appeals from suspended members and complainants could reinforce transparency and impartiality and help to ensure consistency of decision-making throughout England, setting precedents for the types of cases that are heard.

9. CONCLUSION

9.1. Historically, the Authority has not received nor had to process a significant number of complaints relating to alleged breaches of the Code of Conduct. For quite a number of financial years, no complaints were received.

9.2. The Authority has in place a robust Code of Conduct and procedures for dealing with alleged breaches. These are fully compliant with the provisions of the Localism Act 2011 and – where practicable/legal – the recommendations stemming from the Committee on Standards in Public Life report on local government ethical standards. The Code and associated procedures are kept under constant review.

9.3. Points for consideration in a response to this consultation might include (but are not limited to):

- when few complaints are received there is an issue of skills fade for standards committees and particularly for Independent Members; and
- Authority Members are appointed by their constituent authorities and thus, if a complaint received was investigated and proven, any sanction resulting in suspension would need to be instigated by their local authority.

9.4. It remains the case, however, that the duty to promote and maintain high standards of conduct rests with the Authority, collectively and at an individual Member level. The Committee is requested to consider the content of this consultation and to submit views to the Clerk to the Authority on the questions posed by the government for inclusion in the response.

9.5. The Committee is asked that, following consultation with the Chair, the Clerk to the Authority (& Monitoring Officer) be authorised to submit a response on behalf of the Committee by the deadline of 26 February 2025.

SAMANTHA SHARMAN
Clerk to the Authority (& Monitoring Officer)