

LGA response to the Committee on Standards in Public Life consultation - Review of local government ethical standards

May 2018



About us

1. The Local Government Association (LGA) is the national voice of local government. We work with councils to support, promote and improve local government. We are a politically-led, cross-party organisation, which works on behalf of councils to ensure local government has a strong, credible voice with national government.
2. We aim to influence and set the political agenda on issues that matter most to councils so they are able to deliver local solutions to national problems. The LGA covers every part of England and Wales, supporting local government as the most efficient and accountable part of the public sector.

Key messages

3. The LGA believes the existing, locally led approach to standards is the correct approach and must be maintained. It is right that there is an overarching national framework – set by the seven Nolan principles of standards in public life – but that local areas determine the structure for applying these locally. It would be a backward step to reverse this, and local flexibility should be retained. Any future changes to the framework should have the full involvement of the sector rather than being imposed upon it.
4. The LGA and its members support the objective of ensuring the highest standards of integrity among local councillors and elected Mayors. As the representative organisation for local government, the LGA works with councils and councillors to promote conduct and leadership that is in line with the Nolan principles.
5. While we are not complacent about this issue, it should be recognised that ethical standards across local government are very high. Out of a total of more than 19,000 elected councillors in England and Wales, there are very few instances of serious wrongdoing.
6. It is vital that the public have confidence in the high standards of local government, and that there is transparency about the conduct of councillors and the mechanisms for dealing with alleged breaches of codes of conduct. Equally, it is vital that councillors themselves have confidence in these mechanisms, and that individuals who are subject to investigations are treated under the rules of natural justice.

Submission

7. While the way that councillors behave and conduct themselves is important, the way they are treated as holders of elective office is equally important. Worryingly, there is a growing issue of intimidation and harassment of councillors. This is completely unacceptable, and must be dealt with robustly at all levels – by councils, corporately; by the police and, where relevant, by the social media companies which provide platforms for specific forms of abuse.

Further information

Standards framework

8. The LGA supports the locally led approach to standards and conduct introduced by the Localism Act 2011. The previous centralised Standards Board regime was costly and ineffective, with resources devoted to investigating ill-founded or petty complaints in a system that helped fuel further tit for tat complaints.
9. Reversing the locally-led approach to standards and conduct would be a backward step. We believe that any future changes to the current framework should be at the discretion of local authorities to introduce and shape in a way that is suitable for their areas.
10. The framework has as a backstop a number of sanctions for dealing with the most serious conduct and performance issues. For example, councillors who receive a prison sentence of three months or more must stand down¹; if a councillor fails to attend meetings for a period of six months they cease to be a member; and criminal sanctions apply in relation to the failure to declare pecuniary interests.
11. Beyond these, and the sanctions available for failures to comply with local codes, we must be extremely careful about the suggestion of introducing additional sanctions to the current regime. The rights to stand for, and hold, elective office are fundamental parts of the democratic values that our country holds dear, and the need to maintain public confidence in the standards of local government must be carefully balanced with the need to avoid measures which interfere with the democratic process.
12. We have some concern that the current framework creates expectations which cannot be met about principal councils' ability to resolve complaints and standards issues at parish and town council level. Anecdotal evidence suggests that parish and town council complaints account for a disproportionate number of the complaints that some principal councils deal with, but that some of the complaints – perhaps personal in nature, dealing with hyper-local issues or the culture of the council – will never be solvable within the complaints mechanism, where Monitoring Officers are parish Monitoring Officers for codes of conduct issues only.
13. Consideration should be given to how this issue can be addressed. This could include giving principal councils the power to charge town and parish councils where they are repeatedly dealing with complaints and undertaking investigations.

¹ The equivalent provision for MPs relates to a much more substantial yearlong prison sentence.

Investigations

14. It is important that local mechanisms for handling complaints are well managed, with both complainants and councillors satisfied that the issue has been considered in an appropriate way. These mechanisms should include a tiered approach to enable councils to screen out vexatious complaints, or able to deal with lower level complaints informally, while still being able to properly investigate substantive complaints.
15. Where a councillor is the subject of a complaint or under investigation for an alleged breach of the code of conduct, it is vital that they are treated under the rules of natural justice and that there is seen to be a fair process.
16. It is a concern that some councillors have reported that they do not feel that this is always the case. Unless an individual councillor is able to draw on their own private resources to provide legal advice, there may be a serious imbalance between the support and resources available to a council undertaking an investigation when compared to the individual who is under investigation, something that goes against the principles of natural justice.
17. To address this, councils should consider what support there could be for individuals being investigated. One option is to make greater use of the role of the Independent Person, but some councils have reported challenges in attracting people to this role.
18. With very limited exceptions, there should be transparency about the nature of the complaint and who has made it. Investigations should take place as quickly as possible, with individuals kept informed about progress and expected timescales.
19. The LGA would welcome the opportunity as a result of this review to promote examples of best practice in this area identified by the Committee.
20. The criminal sanctions introduced by the Localism Act in relation to failing to declare a pecuniary interest are an important legal backstop within the local standards framework. However, we have some concern in practice about the role of the police in investigating breaches, with some recent investigations taking an extremely long time, creating reputational issues for both local government and the police if conclusions are not reached quickly, or at all.
21. Following the creation of the elected Police and Crime Commissioner role since the Localism Act was introduced, there are concerns about the risk of police investigations into councils and councillors being perceived to be politically motivated. Consideration could be given to whether allegations against councillors which are referred to the police should be investigated by a neighbouring police force.

Harassment of councillors

22. We welcome the fact the Committee is looking specifically at the issue of harassment of councillors following its recent review of Intimidation in Public Life. Many of the conclusions and recommendations from that review apply equally in relation to harassment of councillors, and we hope that they will be taken forward as soon as possible.
23. Instances of councillors being attacked and harassed, notably on social media, is an increasing trend and a very serious issue. There is anecdotal evidence from across the country that female leaders and councillors are subject to more abuse than their male counterparts. In order to better understand this problem, the LGA will be including this issue in its 2018 councillor census.
24. It is unacceptable that councillors should be subjected to personal attacks and a robust response to all forms of abuse is required at every level – from council officers; councils corporately; the police and Crown Prosecution Service (CPS). Additionally, internet and social media providers who provide platforms for much of this abuse should also be required to take action to address this.
25. However, there appears currently to be a mixed response to this issue in different places. While some councils have reported that their local police forces take this very seriously, in other areas there seems almost to be a view that such abuse is part and parcel of being an elected official. Additionally, we are aware that the CPS has declined to take forward some cases relating to the harassment of councillors.
26. The LGA believes there is a need for clear and consistent guidance on what is reasonable protest and comment versus what crosses a line into abuse and harassment, and how the latter will be tackled. Councils should look at their own corporate response to harassment and the support they provide to members who have experienced it. Again, we would welcome the opportunity as a result of this review to promote examples of best practice identified by the Committee.
27. There is also a case for the CPS to produce specific guidance for prosecutors and the police on cases where public servants are victims of crime as a result of their role as a public servant. Both the police and CPS should consistently take the issue seriously and bring forward prosecutions to try to tackle it.

Further information

28. For further information, please contact ellie.greenwood@local.gov.uk