

### 1. In what capacity are you responding to this consultation?

- ☐ An elected member of a council body
- ☐ A council officer
- ☒ A council body
- ☐ A member of the public
- ☐ A local government sector body

### Mandatory minimum prescribed code of conduct

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.

Codes of conduct play an important role in prescribing and maintaining high standards of public service, integrity, transparency, and accountability. At their best, they establish clear guidelines for behaviour and expectations that members always act ethically in the public's best interest. Currently, there is significant variation between adopted codes, ranging from those who choose to adopt the LGA's full model code to those who simply conform with the minimum requirement of restating the Nolan principles.

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.

We would be interested in understanding whether councils consider there should be flexibility to add to the prescribed code to reflect individual authorities' circumstances. They would not be able to amend the mandatory provisions.

### 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?

**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

**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

## **Standards Committees**

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.

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.

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.

**5. Does your local authority currently maintain a standards committee?**

- ☒ Yes
- ☐ No

**Add any further comments**

**6. Should all principal authorities be required to form a standards committee?**

- ☒ Yes
- ☐ No
- ☐ Add any further comments

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.

**7. 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

**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

**9. Should standards committees be chaired by the Independent Person?**

- ☐ Yes
- ☒ No
- ☐ Unsure

**10. If you have further views on ensuring fairness and objectivity and reducing incidences of vexatious complaints, please use the free text box below.**

Our current policy requires the Monitoring Officer to consult with our Independent Person(s) and Chair of Standards Committee before deciding if a complaint requires further action.

## Publishing investigation outcomes

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.

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.

### 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 (add your comments)

## Requiring the completion of investigations if a member stands down

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.

### 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

## Empowering individuals affected by councillor misconduct to come forward

The Government appreciates that it can often be difficult for those who experience misconduct on the part of elected members, such as bullying and harassment, to feel that it is safe and worthwhile to come forward and raise their concerns. If individuals believe there is a likelihood that their complaint will not be addressed or handled appropriately, the risk is that victims will not feel empowered to come forward, meaning misconduct continues without action. We recognise that standing up to instances of misconduct takes an emotional toll, particularly in unacceptable situations where the complaints processes are protracted and do not result in meaningful action. We are committed to ensuring that those affected by misconduct are supported in the right way and feel empowered to come forward.

This section seeks feedback from local authorities with experience of overseeing council complaints procedures, or sector bodies and individuals with views on how this might be carried out most effectively. We are also keen to hear from those who work, or have worked, in local government, and who have either witnessed, or been the victim of, member misconduct.

**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 of complaints

7

**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              | 0 |
| ○ Complaints made by other elected members | 1 |
| ○ Complaints made by the public            | 7 |
| ○ Complaints made by any other source      | 0 |

**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?

- Yes N/A
- No

Please give reasons if you feel comfortable doing so.

**15.** If you are an elected member, have you ever been subject to a code of conduct complaint?

- ☐ Yes N/A
- ☐ No

If so, did you feel you received appropriate support to engage with the investigation?

N/A - a response from a Council body rather than an individual.

**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?

N/A - a response from a Council Body rather than an individual.

**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?

We feel it is important to make people feel comfortable to raise complaints they feel are appropriate but we have no suggested solution.

## **Introducing the power of suspension with related safeguards**

The Government believes that local authorities should have the power to suspend councillors for serious code of conduct breaches for a maximum of six 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.

While the law disqualifies certain people from being, or standing for election as, a councillor (e.g. on the grounds of bankruptcy, or receipt of a custodial sentence of three months or more, or it subject to the notification requirements of the Sexual Offences Act 2003 - meaning on the sex offenders register) councillors cannot currently be suspended or disqualified for breaching their code of conduct.

Feedback from the local government sector in the years since the removal of the power to suspend councillors has indicated that the current lack of meaningful sanctions means local authorities have no effective way of dealing with more serious examples of member misconduct.

The most severe sanctions currently used, such as formally censuring members, removing them from committees or representative roles, and requiring them to undergo training, may prove ineffective in the cases of more serious and disruptive misconduct. This may particularly be the case when it comes to tackling repeat offenders.

The Government recognises that it is only a small minority of members who behave badly, but the misconduct of this small minority can have a disproportionately negative impact on the smooth running of councils. We also appreciate the frustration members of the public and councillors can feel both in the inability to deal decisively with cases of misconduct, and the fact that offending members can continue to draw allowances.

**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

**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

**Add your comments**

The Standards Committee should have the power to recommend a suspension to a full Council meeting.

**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

### **The length of suspension**

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 six 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 six consecutive months.

The Government believes that suspension for the full six 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.

**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 (please specify)
- ☐ No – I do not think the government should set a maximum length of suspension
- ☐ Unsure

If you think the government should set a different maximum length, what should this be, in months? 90 days

**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

### **Withholding allowances and premises and facilities bans**

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.

Granting local authorities the power in legislation to ban suspended councillors from local authority premises and from using council equipment and facilities could be beneficial in cases of behavioural or financial misconduct, ensuring that suspended councillors do not misuse resources or continue egregious behaviour. Additionally, it would demonstrate that allegations of serious misconduct are handled appropriately, preserving trust in public service and responsible stewardship of public assets. These measures may not always be appropriate and should not be tied to the sanction of suspension by default. The government also recognises that there may be instances in which one or both of these sanctions is appropriate but suspension is not. It is therefore proposed that both the power to withhold allowances and premises and facilities bans represent standalone sanctions in their own right.

#### **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

#### **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

#### **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

### **Interim suspension**

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.

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.

We consider 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.

We suggest that:

- Interim suspensions should initially be for up to a maximum of three 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.
- As appropriate, the period of time spent on interim suspension may be deducted from the period of suspension a standards committee imposes.

**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

**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

**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

N/A

**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
- N/A

Any further comments

**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

N/A

**30a.** If you answered yes to above question, what safeguards do you think might be needed to ensure that unlimited suspension is not misused?

N/A

## Disqualification for multiple breaches and gross misconduct

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 five years for those members for whom the sanction of suspension is invoked on more than one occasion within a five-year period.

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 five-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.

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 three months or more (without the option of a fine) in the five-year period before the relevant election. Disqualification also covers sexual offences, even if they do not result in a custodial or suspended sentence.

**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 (please specify)
- ☐ No - the power to suspend members whenever they breach codes of conduct is sufficient

If you think councillors should be disqualified if subject to suspension more than once over a period different to 5 years, what should this be, in years?

If you think the government should set a different disqualification period, what should this be, in years?

Any other comments

Disqualification should be a high bar only used for persistent gross misconduct.

The period should be twice in a 4 year period, our Council term.

**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

Any other comments

This matter should refer to suspension, not disqualification.

## Appeals

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 five 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.

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 five-year period) it would be essential for such a punitive measure to be underpinned by a fair appeals process.

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.

We consider 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 below. Firstly, the following questions test opinion on the principle of providing a mechanism for appeal.

**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

**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 (please specify)
- ☐ No – there should be no time limit for appealing a decision

If you think the government should set a different appeals timeframe, what should this be, in days? Notice of the appeal within 5 days. Full appeal text within 10 working days.

**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

**36.** Do you consider that a complainant should have a right of appeal when an allegation of misconduct is not upheld?

- ☐ Yes
- ☒ No
- ☐ Unsure

**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.

### Potential for a national appeals body

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.

**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

**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

N/A

Please explain your answer

**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

It would benefit people with protected characteristics but the impetus for this is to improve standards of conduct in public life in general.