

TONBRIDGE & MALLING BOROUGH COUNCIL



EXECUTIVE SERVICES

Chief Executive
Damian Roberts

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NB - This agenda contains proposals, recommendations and options. These do not represent Council policy or decisions until they have received proper consideration through the full decision making process.

Contact: Committee Services
committee.services@tmbc.gov.uk

10 January 2025

To: MEMBERS OF THE JOINT STANDARDS COMMITTEE
(Copies to all Members of the Council)

Dear Sir/Madam

Your attendance is requested at a meeting of the Joint Standards Committee to be held in the Council Chamber, Gibson Drive, Kings Hill on Monday, 20th January, 2025 commencing at 7.30 pm.

Members of the Committee are required to attend in person. Other Members may attend in person or participate online via MS Teams.

Information on how to observe the meeting will be published on the Council's website.

Yours faithfully

DAMIAN ROBERTS

Chief Executive

A G E N D A

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PART 1 - PUBLIC

2. Apologies for Absence

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4. Declarations of Interest 11 - 12

Members are reminded of their obligation under the Council's Code of Conduct to disclose any Disclosable Pecuniary Interests and Other Significant Interests in any matter(s) to be considered or being considered at the meeting. These are explained in the Code of Conduct on the Council's website at [Code of conduct for members – Tonbridge and Malling Borough Council \(tmbc.gov.uk\)](https://www.tmbc.gov.uk/code-of-conduct-for-members).

Members in any doubt about such declarations are advised to contact Legal or Democratic Services in advance of the meeting.

5. Minutes 13 - 16

To confirm as a correct record the Minutes of the meeting of the Joint Standards Committee held on 5 June 2024.

Matters to be Taken Under Delegated Powers

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The report presents the consultation on strengthening the standards and conduct framework, published by the Ministry of Housing, Communities and Local Government on 18 December 2024, together with a proposed response for approval by the Committee.

Matters submitted for Information

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This report updates Members on the complaints made to me as Monitoring Officer that a Member may have failed to comply with their authority's Code of Conduct.

8. Urgent Items 67 - 68

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

Matters for consideration in Private

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The Chairman to move that the press and public be excluded from the remainder of the meeting during consideration of any items the publication of which would disclose exempt information.

PART 2 - PRIVATE

10. Urgent Items

71 - 72

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

MEMBERSHIP

Cllr D A S Davis (Chair)
Cllr Mrs S Bell (Vice-Chair)

Cllr K Barton
Cllr A G Bennison
Cllr G C Bridge
Cllr Mrs T Dean
Cllr J R S Lark

Cllr B A Parry
Cllr M R Rhodes
Cllr R V Roud
Cllr K B Tanner

Parish and Town Representatives:

Vacancy
Mr A Sullivan
Mr G Hook
Mr B Stead
Mr N Newman
Mr M Williams
Mr O Baldock
Mr A Petty
Mrs W Palmer
Mr M Carboni
Prof M McKinlay
Ms K Mordecai-Wolfe
Mr D Gaunt
Mr D Beach

Addington
Aylesford
Borough Green
Burham
Ditton
East Peckham
Hadlow
Kings Hill
Platt
Plaxtol
Ryarsh
Snodland
Trottiscliffe
Wrotham

Mr D Mercier

Independent Person

GUIDANCE ON HOW MEETINGS WILL BE CONDUCTED

- (1) Most of the Borough Council meetings are livestreamed, unless there is exempt or confidential business being discussed, giving residents the opportunity to see decision making in action. These can be watched via our YouTube channel. When it is not possible to livestream meetings they are recorded and uploaded as soon as possible:

<https://www.youtube.com/channel/UCPp-IJISNgoF-ugSzxjAPfw/featured>

- (2) There are no fire drills planned during the time a meeting is being held. For the benefit of those in the meeting room, the fire alarm is a long continuous bell and the exits are via the doors used to enter the room. An officer on site will lead any evacuation.
- (3) Should you need this agenda or any of the reports in a different format, or have any other queries concerning the meeting, please contact Democratic Services on committee.services@tmbc.gov.uk in the first instance.

Attendance:

- Members of the Committee are required to attend in person and be present in the meeting room. Only these Members are able to move/ second or amend motions, and vote.
- Other Members of the Council can join via MS Teams and can take part in any discussion and ask questions, when invited to do so by the Chair, but cannot move/ second or amend motions or vote on any matters. Members participating remotely are reminded that this does not count towards their formal committee attendance.
- Occasionally, Members of the Committee are unable to attend in person and may join via MS Teams in the same way as other Members. However, they are unable to move/ second or amend motions or vote on any matters if they are not present in the meeting room. As with other Members joining via MS Teams, this does not count towards their formal committee attendance.
- Officers can participate in person or online.

- Members of the public addressing an Area Planning Committee should attend in person. However, arrangements to participate online can be considered in certain circumstances. Please contact committee.services@tmbc.gov.uk for further information.

Before formal proceedings start there will be a sound check of Members/Officers in the room. This is done as a roll call and confirms attendance of voting Members.

Ground Rules:

The meeting will operate under the following ground rules:

- Members in the Chamber should indicate to speak in the usual way and use the fixed microphones in front of them. These need to be switched on when speaking or comments will not be heard by those participating online. Please switch off microphones when not speaking.
- If there any technical issues the meeting will be adjourned to try and rectify them. If this is not possible there are a number of options that can be taken to enable the meeting to continue. These will be explained if it becomes necessary.

For those Members participating online:

- please request to speak using the 'chat or hand raised function';
- please turn off cameras and microphones when not speaking;
- please do not use the 'chat function' for other matters as comments can be seen by all;
- Members may wish to blur the background on their camera using the facility on Microsoft teams.
- Please avoid distractions and general chat if not addressing the meeting
- Please remember to turn off or silence mobile phones

Voting:

Voting may be undertaken by way of a roll call and each Member should verbally respond For, Against, Abstain. The vote will be noted and announced by the Democratic Services Officer.

Alternatively, votes may be taken by general affirmation if it seems that there is agreement amongst Members. The Chairman will announce the outcome of the vote for those participating and viewing online.

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Joint Standards Committee

	Conservative	Liberal Democratic	Green	Ind. Kent Alliance	Labour
1	Robin Betts	Bill Banks	Lee Athwal		Paul Hickmott
2	Matt Boughton	Tim Bishop	Anna Cope		Wayne Mallard
3	Martin Coffin	James Clokey	Mark Hood		
4	Des Keers	Frani Hoskins	Robert Oliver		
5	Colin Williams	Michelle Tatton	Stacey Pilgrim		

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Declarations of interest

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TONBRIDGE AND MALLING BOROUGH COUNCIL

JOINT STANDARDS COMMITTEE

MINUTES

Wednesday, 5th June, 2024

Present: Cllr D A S Davis (Chair), Cllr K Barton, Cllr G C Bridge, Cllr J Clokey (substitute), Cllr M Coffin (substitute), Cllr J R S Lark, Cllr B A Parry and Cllr C Williams (substitute).

Together with parish/town council representatives Mr W Stead (Burham Parish Council), Mr N Newman (Ditton Parish Council), Mr O Baldock (Hadlow Parish Council) and W Palmer (Platt Parish Council).

Apologies for absence were received from Councillors Mrs S Bell (Vice-Chair), A G Bennison, M R Rhodes*, R V Roud, K B Tanner; and Parish Councillors C Short (Addington Parish Council), Mr M Williams* (East Peckham Parish Council), Mr M Carboni (Plaxtol Parish Council) and Prof M McKinlay (Ryarsh Parish Council).

(*apologies for in-person attendance submitted and participated via MS Teams)

PART 1 - PUBLIC

ST 24/1 NOTIFICATION OF SUBSTITUTE MEMBERS

Notification of substitute Members were recorded as set out below:

- Cllr Clokey substituted for Cllr Roud
- Cllr Coffin substituted for Cllr Tanner
- Cllr Williams substituted for Cllr Bell

In accordance with Council Procedure Rules 17.5 to 17.9 these Councillors had the same rights as the ordinary member of the committee for whom they were substituting.

ST 24/2 DECLARATIONS OF INTEREST

There were no declarations of interest made in accordance with the Code of Conduct.

ST 24/3 MINUTES

RESOLVED: That the Minutes of the meeting of the Joint Standards Committee held on 12 July 2023 be approved as a correct record and signed by the Chairman.

MATTERS TO BE TAKEN UNDER DELEGATED POWERS**ST 24/4 JOINT STANDARDS COMMITTEE - PARISH/TOWN REPRESENTATIVES AND VOTING ALLOCATIONS**

Following consultation with Parish/Town Councils and the Parish Partnership Panel at the latter end of 2023, the report of the Interim Chief Executive confirmed parish/town representatives for the Joint Standards Committee. The Chair of the Committee and the Monitoring Officer had also been consulted upon the proposals.

A revised 'pool' of parish and town council representatives was set out in Annex 1 together with proposed voting allocations for 2024-26. It was confirmed that not being assigned voting rights didn't prevent parish/town representatives from participating in meetings of the Committee but removed confusion around voting.

RESOLVED: That

- (1) the revised 'pool' for parish and town council representatives (set out in Annex 1) be noted;
- (2) the voting allocations for 2024-26 (as set out in Annex 1) and duplicated below be endorsed:

2024/25	Burham, Ditton, Hadlow, Platt, Plaxtol and Ryarsh;
2025/26	Addington, Aylesford, Borough Green, East Peckham, Kings Hill and Trottiscliffe;
2026/27	Snodland, Wrotham and 4 vacancies

MATTERS SUBMITTED FOR INFORMATION**ST 24/5 CODE OF CONDUCT COMPLAINTS**

The Committee received an update on the complaints made to the Monitoring Officer that a Member may have failed to comply with the their authority's code of conduct.

Details of the complaints received since the last meeting of the Joint Standards Committee were set out in Annex 1. Six further complaints were currently subject to initial assessment.

MATTERS FOR CONSIDERATION IN PRIVATE

ST 24/6 EXCLUSION OF PRESS AND PUBLIC

There were no items considered in private.

The meeting ended at 8.00 pm
having started at 7.50 pm

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Joint Standards Committee

20 January 2025

Part 1 - Public

Delegated



Cabinet Member	n/a
Responsible Officer	Adrian Stanfield, Monitoring Officer
Report Author	Adrian Stanfield, Monitoring Officer

Consultation – strengthening the standards and conduct framework for local authorities in England

1 Summary and Purpose of Report

- 1.1 This report presents the consultation on strengthening the standards and conduct framework, published by the Ministry of Housing, Communities and Local Government on 18 December 2024, together with a proposed response for approval by the Committee.

2 Corporate Strategy Priority Area

- 2.1 Efficient services for all our residents, maintaining an effective council.
- 2.2 The proposals in this report will contribute to the above priority by ensuring that the Joint Standards Committee is able to respond to the government consultation on important reforms to the ethical standards regime.

3 Recommendations

- 3.1 The Committee is asked to approve the Borough Council's response to the consultation as set out at **Annex 2**.

4 Introduction and Background

- 4.1 On 18 December 2024 the Ministry of Housing Communities and Local Government (MHCLG) published a consultation on strengthened sanctions for local authority conduct breaches in England. The proposals relate to both the Borough Council and all parish/ town councils within Tonbridge & Malling together with other relevant authorities e.g. Kent County Council.
- 4.2 A copy of the consultation paper is attached at **Annex 1**.

- 4.3 The consultation invites views on 40 questions and closes on 26 February 2025.
- 4.4 The 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.
- 4.5 Specific proposals being consulted upon for legislative change include:
- the introduction of a mandatory minimum code of conduct for local authorities in England
 - 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
- *principal authorities will include the Borough Council and Kent County Council but not parish or town councils
- the introduction of the power for all local authorities (including combined authorities) to suspend councillors or mayors found in serious breach of their code of conduct and, as appropriate, interim suspension for the most serious and complex cases that may involve police investigations
 - a new category of disqualification for gross misconduct and those subject to a sanction of suspension more than once in a 5-year period
 - a role for a national body to deal with appeals
- 4.6 In addition, the consultation seeks views on how to empower victims affected by councillor misconduct to come forward and what additional support would be appropriate to consider.
- 4.7 Responses are invited from local authority elected members and officers from all types and tiers of authorities, and local authority sector representatives. Individual Members or Parish/ Town Councils may therefore wish to respond to the consultation in their own capacity.
- 4.8 Members of the Committee may recall that the effectiveness of the existing sanctions for breaches of the code has been a longstanding concern, not only for TMBC & Town/ Parish Councils within the borough but generally for authorities across England. A previous report was submitted to Members on 5 March 2018 in respect of a consultation paper published by the Committee on Standards in Public Life. Members considered that the lack of effective sanctions, such as the ability to suspend a member of the Council, should be identified as a fundamental weakness and should be reinstated. The Monitoring Officer was therefore

authorised to respond to make these views known to the Committee on Standards in Public Life. These previous discussions have informed the proposed response to the consultation.

5 Proposal

5.1 The proposed response of the Borough Council is set out at **Annex 2**.

6 Other Options

6.1 The Borough Council is not obliged to respond to the MHCLG consultation. However, the effectiveness of the available sanctions is an important issue for the discharge of our ethical standards responsibilities and it is therefore considered that the Joint Committee should take the opportunity to make its views known.

7 Financial and Value for Money Considerations

7.1 None arising from this report.

8 Risk Assessment

8.1 None arising from this report.

9 Legal Implications

9.1 The Localism Act 2011 does not currently provide local authorities with any express powers to suspend or disqualify an elected member in response to a code of conduct complaint, implement a premises/ facilities ban or withhold members' allowances.

10 Consultation and Communications

10.1 The consultation closes at 11.59pm on 26 February 2025.

11 Implementation

11.1 The Monitoring Officer will be responsible for ensuring that the response of the Joint Committee is sent to the MHCLG.

12 Cross Cutting Issues

12.1 Climate Change and Biodiversity

12.1.1 Climate change advice has not been sought in the preparation of the options and recommendations in this report.

12.2 Equalities and Diversity

12.2.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

12.3 Other If Relevant

- None

Background Papers	None
Annexes	Annex 1 - Consultation paper - strengthening the standards and conduct framework for local authorities in England Annex 2 – Proposed response to consultation



Ministry of Housing,
Communities &
Local Government

Open consultation

Strengthening the standards and conduct framework for local authorities in England

Published 18 December 2024

Applies to England

Contents

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2. Ministerial foreword
3. Background: Standards and Conduct framework and sanctions arrangements
4. Who we would like to hear from
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7. Public Sector Equality Duty

Annex A: Personal data



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This publication is available at <https://www.gov.uk/government/consultations/strengthening-the-standards-and-conduct-framework-for-local-authorities-in-england/strengthening-the-standards-and-conduct-framework-for-local-authorities-in-england>

1. Scope of this consultation

Topic of this consultation

This consultation seeks views on introducing a mandatory minimum code of conduct for local authorities in England, and 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.

Scope of this consultation

The Ministry of Housing, Communities and Local Government (MHCLG) is consulting on introducing strengthened sanctions for local authority code of conduct breaches in England.

This includes all 'relevant authorities' as defined by Section 27(6) of the Localism Act 2011, which includes:

- a county council
- a unitary authority
- London borough councils
- a district council
- the Greater London Authority
- the London Fire and Emergency Planning Authority
- the Common Council of the City of London in its capacity as a local authority or police authority
- the Council of the Isles of Scilly
- parish councils
- a fire and rescue authority in England constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies,
- a joint authority established by Part 4 of the Local Government Act 1985, an economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009
- a combined authority established under section 103 of that Act,
- a combined county authority established under section 9(1) of the Levelling Up and Regeneration Act 2023
- the Broads Authority

- a National Park authority in England established under section 63 of the Environment Act 1995

It does not cover:

- police and crime commissioners
- internal drainage boards
- any other local authority not otherwise defined as a 'relevant authority' above

All references to 'members' refer to elected members, mayors, co-opted and appointed members of each of the 'relevant authorities' defined above.

Geographical scope

The questions in this consultation paper apply to all relevant local authorities in England as defined above.

They generally do not apply to authorities in Wales, Scotland or Northern Ireland, except in relation to Police and Crime Panels in Wales.

Impact assessment

We will produce a full Public Sector Equality Duty (PSED) assessment, and all necessary impact assessments, as the policy proposals develop further following this consultation.

Basic information

This is an open consultation. We particularly seek the views of individual members of the public; prospective and current elected members/representatives; all relevant local authorities defined above; and those bodies that represent the interests of local authority members/representatives at all levels.

Body responsible for the consultation

The Local Government Capacity and Improvement Division of the Ministry of Housing, Communities and Local Government is responsible for

conducting this consultation.

Duration

This consultation will last for 10 weeks from 18 December 2024.

Enquiries

For any enquiries about the consultation please contact:

LGstandardsreform@communities.gov.uk

How to respond

You can only respond to this call for evidence through our online consultation platform, [Citizen Space \(https://consult.communities.gov.uk/local-government-standards-and-conduct/strengthening-the-standards-and-conduct-framework\)](https://consult.communities.gov.uk/local-government-standards-and-conduct/strengthening-the-standards-and-conduct-framework).

2. Ministerial foreword

The government is determined to fix the foundations of local government so councils can sustainably provide decent public services and shape local places, and so elected representatives can be fully accountable to the public they serve. Doing so is critical to national renewal, our missions, and our plans to push power out of Westminster and into the hands of local people with skin in the game.

At the core of this agenda is a plan to make local government across England fit, legal, and decent – so that councils have the backing from central government to deliver the high standards and strong financial management that they strive for, without needless micromanagement of day-to-day local decision-making. This plan includes:

- fixing our broken audit system
- improving oversight and accountability
- giving councils genuine freedoms to work for, and deliver in the best interests of, their communities
- improving the standards and conduct regime

This consultation is focused on the proposed reforms to the standards and conduct regime that will contribute to making sure England is covered by effective local and strategic authorities that are well-governed, with high standards met and maintained.

It is an honour and a privilege to be elected as a member and with it comes an individual and collective responsibility to consistently demonstrate and promote the highest standards of conduct and public service.

Members take decisions affecting critical local services such as social care, education, housing, planning, licensing, and waste collection. With greater devolution, local authorities will increasingly be taking decisions to shape local transport, skills, employment support, and growth. Decisions that are the responsibility of members impact virtually every citizen's life at some level, and the electorate has a right to expect that it can trust its local elected members to uphold the highest ethical standards and act in the best interests of the communities they serve.

I strongly believe that the vast majority of local elected members maintain high standards of conduct and that they are driven by duty and service. I believe that people stand for elected office in their local communities with the best intentions to act in the interests of those communities, bringing an energy and commitment to working collaboratively, creatively, and respectfully.

Members, officers, reporters and members of public are entitled to support and participate in the local democratic process in the confidence that high standards are maintained. This government wants to celebrate the positive power of public service and, in doing so, we want to give individual authorities appropriate and proportionate means to deal with misconduct effectively and decisively when it does occur. We also want to ensure that anyone can rightly feel confident about raising an issue under the code of conduct whether it impacts them personally and/or is a code conduct breach that brings the reputation of the council into disrepute.

With approximately 120,000 councillors in England across all types and tiers of local government, we know there are rare instances of misconduct.

Robust political debate is part of our democratic system, but we know from local councils that there are examples of bullying, harassment or other misconduct, when from even a very small minority of members can have a seriously destabilising effect, potentially bringing a council into disrepute and distracting from the critical business of delivering for residents.

This government is committed to working with local and regional government to establish partnerships built on mutual respect, genuine collaboration and meaningful engagement. Our ambition is to create a rigorous standards and conduct framework that will actively contribute to ensuring that local government throughout the country is fit, legal, and decent. With this in mind, this consultation seeks your views on a range of proposals to give local leaders the tools they need to establish and maintain a strong and ethical public service and democratic culture, and the people they serve the confidence that local democracy works for them.

Jim McMahon OBE MP

Minister of State for Local Government and English Devolution

3. Background: Standards and Conduct framework and sanctions arrangements

The [Localism Act 2011](#)

(<http://www.legislation.gov.uk/ukpga/2011/20/part/1/chapter/7/enacted>)^[footnote 1]

established the current standards and conduct framework for local authorities.

The current regime requires every local authority to adopt a code of conduct, the contents of which must as a minimum be consistent with the 7 'Nolan' [principles of standards in public life](#)

(<https://www.gov.uk/government/publications/the-7-principles-of-public-life>)

(selflessness, integrity, objectivity, accountability, openness, honesty and leadership), and set out rules on requiring members to register and disclose pecuniary and non-pecuniary interests. Beyond these requirements, it is for individual councils to set their own local code. The Local Government Association (LGA) published an [updated model code of conduct and guidance](#) (<https://www.local.gov.uk/publications/local-government-association-model-councillor-code-conduct-2020>) in 2021, which councils can choose whether to adopt or not.

Every authority must also have in place arrangements under which it can investigate allegations of breaches of its code of conduct and must consult at least one independent person before coming to decisions. These decisions are normally taken in one of two ways depending on an authority's specific arrangements. The decision can be made by full council following advice from their standards committee (or equivalent).

Alternatively, the decision can be made by the standards committee if they have been given the power to do so. Although a standards committee may contain unelected independent members and co-opted members, only principal councils' elected members may vote in a decision-making standards committee.

There is no provision in current legislation for a sanction to suspend a councillor found to have breached the code of conduct. Sanctions for member code of conduct breaches are currently limited to less robust measures than suspension, such as barring members from Cabinet, Committee, or representative roles, a requirement to issue an apology or undergo code of conduct training, or public criticism. Local authorities are also unable to withhold allowances from members who commit serious breaches of their code of conduct, and there is no explicit provision in

legislation for councils to impose premises bans or facilities withdrawals where they consider that it might be beneficial to do so.

The government considers that the current local authority standards and conduct regime is in certain key aspects ineffectual, inconsistently applied, and lacking in adequate powers to effectively sanction members found in serious breach of their codes of conduct.

4. Who we would like to hear from

Responses are invited from local authority elected members and officers from all types and tiers of authorities, and local authority sector representative organisations. We are also particularly keen to hear from those members of the public who have point of view based on their interest in accessing local democracy in their area or standing as a candidate for local government at any tier to represent their local community at some future point.

Please be assured that all responses to this consultation are anonymous, and no information will be disclosed in any future published response to the consultation, or reporting of the consultation results, that will compromise that anonymity.

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

5. Strengthening the Standards and Conduct framework

a) 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.

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

b) 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 [footnote 2](#)) 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.

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]

c) 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.

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

d) 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.

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

e) 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.

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]

6. 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 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.

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 3 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.

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

a) The length of suspension

The Committee on Standards in Public Life recommended in their 2019 Local Government Ethical Standards^[footnote 3] (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.

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.

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

b) 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.

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

c) 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 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.

- As appropriate, the period of time spent on interim suspension may be deducted from the period of suspension a standards committee imposes.

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]

d) 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 5 years for those members for whom the sanction of suspension is invoked on more than one occasion within a 5-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 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.

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.

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]

e) 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 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.

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.

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.

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

The government is also keen to explore if a right of appeal should be provided, either in relation to whether a complaint proceeds to full investigation and consideration by the standards committee, or where a claimant is dissatisfied with the determination of the standards committee.

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]

f) 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.

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 [free text box]

7. Public Sector Equality Duty

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.

[Free text box]

Annex A: Personal data

The following is to explain your rights and give you the information you are entitled to under the Data Protection Act 2018. Note that this section only refers to your personal data (your name address and anything that could be used to identify you personally) not the content of your response to the consultation.

1. The identity of the data controller and contact details of our Data Protection Officer

The Ministry of Housing, Communities and Local Government (MHCLG) is the data controller. The Data Protection Officer can be contacted at dataprotection@communities.gov.uk.

2. Why we are collecting your personal data

Your personal data is being collected as an essential part of the consultation process, so that we can contact you regarding your response and for statistical purposes. We may also use it to contact you about related matters.

3. Our legal basis for processing your personal data

The Data Protection Act 2018 states that, as a government department, MHCLG may process personal data as necessary for the effective performance of a task carried out in the public interest. i.e. a consultation.

4. With whom we will be sharing your personal data

We use a third-party platform, Citizen Space, to collect consultation responses. In the first instance, your personal data will be stored on their secure UK-based servers.

5. For how long we will keep your personal data, or criteria used to determine the retention period.

Your personal data will be held for 2 years from the closure of the consultation.

6. Your rights, e.g. access, rectification, erasure

The data we are collecting is your personal data, and you have considerable say over what happens to it. You have the right:

- a) to see what data we have about you
- b) to ask us to stop using your data, but keep it on record
- c) to ask to have all or some of your data deleted or corrected
- d) to lodge a complaint with the independent Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with

the law. You can contact the ICO at <https://ico.org.uk/> (<https://ico.org.uk/>), or telephone 0303 123 1113.

7. Your personal data will not be sent overseas

8. Your personal data will not be used for any automated decision making

9. Your personal data will be stored on a secure government IT system

Your data will be transferred to our secure government IT system as soon as possible after the consultation has closed, and it will be stored there for the standard 2 years of retention before it is deleted.

-
1. [Localism Act 2011 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2011/20/part/1/chapter/7)
(<https://www.legislation.gov.uk/ukpga/2011/20/part/1/chapter/7>)
 2. Only around 36% of the population of England is covered by a parish or town council.
 3. [Local government ethical standards: report - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/local-government-ethical-standards-report)
(<https://www.gov.uk/government/publications/local-government-ethical-standards-report>)

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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? [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

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]

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 –

We currently publish details of all complaints made to the Borough Council, but the identities of the Complainant and Cllr concerned are only published where a complaint proceeds to an investigation and hearing before the Standards Hearing Panel. Otherwise the published details will only state the name of the Council concerned e.g. Tonbridge & Malling Borough Council or the relevant Parish Council together with brief details of the complaint and the outcome. No information is published which could identify either the Complainant or the Councillor concerned. We believe this is an appropriate and transparent way of upholding high standards of conduct.

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?

13 per annum (over previous 3-year period)

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 52% approximately*
- Complaints made by the public 48% approximately*
- Complaints made by any other source [Number box]

*over previous 3 year period

Question 14 (not applicable)

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 (not applicable)

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 (not applicable)

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?

The most important measure would be the introduction of effective sanctions. The existing system offers no reassurance to officers or to members of the public that the behaviour in question can adequately be addressed, even if their complaint is upheld. This can deter officers and members of the public from pursuing complaints, particularly if they are believe that they will (or continue to) be a victim of bullying by the councillor in question.

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
- Whilst it would potentially allow for a decision to be made more promptly, the risk of empowering a Standards Committee to suspend members is that there will inevitably be accusations by the suspended member(s) in question that the decision has in some way been politically motivated at a local level. A referral to an Independent Body would remove this risk. It would also help in promoting greater consistency as to the circumstances under which a suspension is an appropriate sanction.

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

Question 23

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- 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 [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]

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]

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 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.

[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 [free text box]

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.

[Free text box]

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Joint Standards Committee

20 January 2025

Part 1 - Public

Matters for Information



Cabinet Member	n/a
Responsible Officer	Adrian Stanfield, Monitoring Officer
Report Author	Adrian Stanfield, Monitoring Officer

Complaints Update

1 Summary and Purpose of Report

- 1.1 This report updates Members on the complaints made to me as Monitoring Officer that a Member may have failed to comply with their authority's Code of Conduct.

2 Corporate Strategy Priority Area

- 2.1 Efficient services for all our residents, maintaining an effective council.
- 2.2 Upholding high standards of conduct is an essential element of ensuring that the Council is able to deliver its services in the most efficient way.

3 Recommendations

- 3.1 Members are asked to note the outcome of complaints assessed by the Monitoring Officer since the previous update to this Committee on 5 June 2024.

4 Introduction and Background

- 4.1 In accordance with the arrangements adopted by the Borough Council for dealing with complaints that a councillor has breached their authority's code of conduct, complaints are subject to an initial assessment by me in consultation with the Independent Person(s) and the Chair and Vice-Chair of the Joint Standards Committee. In advance of that assessment, I invite the Councillor against whom the complaint is made to submit their initial views to me so that these may be taken into account in our deliberations.
- 4.2 Our adopted procedure requires that complaints are assessed against the following preliminary criteria –

The legal jurisdiction test - this contains 6 elements, including

- was the person complained of acting in an official capacity at the time of the alleged conduct?
- If the facts could be established as a matter of evidence, could the alleged conduct be capable of a breach of the Code of Conduct?

If a complaint fails one or more of the jurisdiction tests, no further action will be taken and the complaint will be rejected;

The local assessment criteria test - if a complaint passes the legal jurisdiction test, I am then required to apply the local assessment criteria test. There are 12 elements to this test, including

- The complaint is relatively minor and dealing with the complaint would have a disproportionate effect on both public money and officers' and Members' time;
- The complaint is such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter, e.g. where there is no firm evidence on the matter

- 4.3 If one or more of the local assessment criteria applies to the complaint, no further action will be taken by me and the complaint will be rejected.
- 4.4 If a complaint passes the above tests, the next stage is then to consider whether the complaint merits investigation, or if it is more appropriate for it to be resolved on an informal basis. In certain cases it may also be appropriate to take no action, notwithstanding the fact that a complaint has passed the initial tests.
- 4.5 As previously agreed by this Committee, personal details of Complainants or Subject Members are not published unless a complaint leads to investigation and public hearing before the Hearing Panel.

5 Proposal

- 5.1 Details of the complaints assessed since 5 June 2024 are set out in the table attached at Annex 1.
- 5.2 3 complaints have been made to the Local Government and Social Care Ombudsman (LGSCO) in relation to decisions reached by the Monitoring Officer. 2 of these cases relate to decisions made by the Monitoring Officer during 2024 with the third relating to a decision made during 2023. In all 3 cases the LGSCO has indicated that it will not investigate the complaints because there is insufficient evidence of fault.

6 Other Options

- 6.1 Not applicable.

7 Financial and Value for Money Considerations

7.1 None arising from this report.

8 Risk Assessment

8.1 It is important for transparency purposes to share complaint outcomes with the Joint Standards Committee. However, there are risks associated with publishing any personal data (whether that relates to the complainant, subject member or witnesses), hence the safeguards set out in paragraph 4.5 above.

9 Legal Implications

9.1 The Borough Council is required under s28(6) of the Localism Act to have in place arrangements under which allegations can be investigated and decisions on allegations can be made.

10 Consultation and Communications

10.1 The Chair and Vice-Chair of the Joint Standards Committee, together with the Independent Person have been consulted on all of the complaints set out in the Annex, prior to the Monitoring Officer reaching a decision.

10.2 The outcomes of all complaints are reported to the complainant and subject member(s), together with the clerk to the parish/ town council (where applicable).

11 Implementation

11.1 No further action is required in order to implement the decisions set out in Annex 1.

12 Cross Cutting Issues

12.1 Climate Change and Biodiversity

12.1.1 Limited or low impact on emissions and environment.

12.1.2 Climate change advice has not been sought in the preparation of the options and recommendations in this report.

12.2 Equalities and Diversity

12.2.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

Background Papers	None
Annexes	Annex 1 – summary of complaints made to Monitoring Officer

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STANDARDS COMPLAINTS JUNE TO DECEMBER 2024

JOINT STANDARDS COMMITTEE

REF.	AUTHORITY	SUMMARY OF COMPLAINT	RESOLUTION/ OUTCOME
1	TMBC	Complaint against 3 Members of TMBC, arising out of comments made by the Members at a meeting of the TMBC Cabinet. Allegation that the Members made false statements (disrepute).	Complaint rejected - failed local assessment criteria (paras d & h).
2	East Peckham Parish Council	Complaint against 2 Members of the Parish Council, alleging misconduct at 2 meetings of the Parish Council (disrespect).	Complaint rejected – failed legal jurisdictional test. Not capable of amounting to a breach of the Code of Conduct.
3	Borough Green Parish Council	Alleged bullying and intimidation.	Complaint rejected failed local assessment criteria (paras d & j).
4	TMBC	Complaint against 2 Members of TMBC. Allegation that Cllr 1 verbally abused and questioned intelligence of complainant and that Cllr 2 deliberately misled the public during a Council meeting.	Complaint rejected – failed legal jurisdictional test (Cllr 1) and local assessment criteria (paras d, g & h) (Cllr 2)
5	TMBC	Complaint about behaviour of Cllr during a Council meeting, alleging a breach of the Nolan principles and bullying/ disrepute under the Code.	Complaint rejected – failed legal jurisdictional test. Even if proven, comments made by Cllr Insufficient to amount to bullying or disrepute.
6	East Peckham Parish Council	Complaint against 2 Members of the Parish Council, relating to conduct during a meeting of the Parish Council. Allegation that Cllrs breached Nolan principles	Complaint rejected – failed legal jurisdictional test. Insufficient supporting evidence that Code had been breached and complaint was about dissatisfaction with Parish

			Council decision rather than conduct of Cllrs.
7	Wateringbury Parish Council	Complaint about behaviour of Cllr during a Council meeting, alleging disrepute under the Code.	Complaint rejected – failed local assessment criteria (paras c, d g & j)
8	Borough Green Parish Council	Complaint about failure of Parish Council to follow their adopted procedures for handling complaints and the role of 1 Parish Cllr in that process (disrepute).	Complaint rejected – failed legal jurisdictional test. Complaint related to an alleged failure of the Parish Council rather an individual Cllr.
9	Wateringbury Parish Council	Complaint that Cllr breached obligations relating to bullying, disrepute, compromising or likely to compromise the integrity of those who work for or on behalf of the authority, disclosing information given in confidence, using position improperly to confer on or secure for themselves or any other person an advantage or disadvantage.	Recommended to Parish Council that complaint be resolved informally through mediation.
10	Borough Green Parish Council	Complaint that Cllr breached confidentiality/ GDPR by publishing details of previous complaint.	Complaint closed – matter for the Information Commissioner rather than TMBC
11	Wateringbury Parish Council	Complaint about behaviour of Cllr during a Parish Council meeting (disrepute).	Complaint rejected – failed local assessment criteria (paras c,d, g & j).
12	Borough Green Parish Council	Complaint about alleged disclosure of complainant's identity via Parish Council minutes (respect/ bullying/ improperly conferring an advantage or disadvantage/ disclosure of confidential information).	Complaint rejected – failed local assessment criteria (paras d, g & i).
13	Borough Green Parish Council	Complaint about inflammatory article in the local press and of content of email from Cllr.	Complaint rejected – failed local assessment criteria (paras d & g).

Agenda Item 8

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

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Agenda Item 9

The Chairman to move that the press and public be excluded from the remainder of the meeting during consideration of any items the publication of which would disclose exempt information.

**ANY REPORTS APPEARING AFTER THIS PAGE CONTAIN EXEMPT
INFORMATION**

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Agenda Item 10

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

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