

STANDARDS COMMITTEE

5 FEBRUARY 2025

REPORT OF THE MONITORING OFFICER

A.2 GOVERNMENT CONSULTATION ON STRENGTHENING THE STANDARDS AND CONDUCT FRAMEWORK

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

For the Standards Committee to determine whether to respond to the Ministry of Housing, Communities & Local Government (“the government’s”) consultation on the Standards and Conduct framework, on behalf of Tendring District Council.

EXECUTIVE SUMMARY

The Government has launched a consultation regarding the application of standards and conduct in local authorities. The consultation opened on 18 December 2024 and runs for 10 weeks, closing on 26 February 2025. It states: *“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.”*

Appendix A to this report is a set of proposed answers to the specific questions which are posed, together with supporting text where appropriate.

This consultation seeks views on introducing measures to strengthen the standards and conduct regime in England and ensure consistency of approach amongst councils investigating serious breaches of their member codes of conduct, including the introduction of the power of suspension.

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
- 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.

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.

The Consultation suggests that the government are in favour of introducing these sanctions but

the consultation is seeking input from the sector and any other interested parties. This report asks the Standards Committee to consider whether a formal Council response should be provided to the consultation exercise and if so, it wishes to endorse those suggested in Appendix A or as amended through its debate.

RECOMMENDATION(S)

It is recommended that the Standards Committee:

- (a) Considers the contents of the report and determines whether a formal response should be provided on behalf of Tendring District Council to the government's consultation exercise; and
- (b) Subject to (a) determines whether to submit the proposed response, as set out in Appendix A or as amended through its debate at the meeting.

REASON(S) FOR THE RECOMMENDATION(S)

The Standards Committee has responsibility for the Standards Framework at the Council, as set out in Article 9 of the Council's Constitution, therefore it is the appropriate body to consider this matter.

ALTERNATIVE OPTIONS CONSIDERED

The Committee could determine that the Council should not provide a response to the consultation, but it be left to political groups or interested individuals to submit their own responses.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The Council operates a Members' Code of Conduct, which is included in the Constitution. This is underpinned by the standards of conduct in public life (the "Nolan principles") and all Members agree to adhere to the Code of Conduct.

The Council has approved and adopted a Local Code of Corporate Governance, which is consistent with the principles of the **CIPFA / SOLACE *Delivering Good Governance in Local Government Framework (2016 Edition)***. The principles and standards set out in the 2016 Framework are aimed at helping local authorities to develop and maintain their own codes of governance and discharge their accountability for the proper conduct of business.

The first principle of the CIPFA/Solace Framework – Principle A expects local government to give on-going assurance (through its Annual Governance Statement) that it is "*Behaving with integrity, demonstrating strong commitment to ethical values and respecting the rule of law*".

The Role of the Standards Committee within the governance environment is to:

- Promote and maintain high standards of conduct
- Develop culture of openness, transparency, trust and confidence
- Embed a culture of strong ethical and corporate governance

Corporate governance is about how we ensure that we are doing the **right** things, in the **right** way, for the **right** people in a timely, inclusive, honest and accountable manner.

LEGAL REQUIREMENTS (including legislation & constitutional powers)

Under section 27(1) of the Localism Act 2011 (“the Act”) the Council is placed under a statutory duty to “*promote and maintain high standards of conduct by members and co-opted members of the authority*”.

Under section 27(2) of the Act a relevant authority “*must in particular, adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity*”.

Under section 28(1) of the Act a relevant authority must secure that a code adopted by it is, when viewed as a whole, consistent with the prescribed Principles of Standards in Public Life, known as the “Nolan principles”.

The intention of the legislation is to ensure that the conduct of public life in local government does not fall below a minimum level which endangers public confidence in democracy.

Under section 28(6) of the Act, the Council must have in place

- (a) arrangements under which allegations can be investigated and
- (b) arrangements under which decisions on allegations can be made.

Section 28(11) of the Act provides that if a member or co-opted member of the authority has failed to comply with its code of conduct it may have regard to the failure in deciding (a) whether to take action in relation to the member or co-opted member and (b) what action to take (known as ‘sanctions’).

Consequently, where breaches of the Code are alleged to have been made, the Monitoring Officer has the responsibility to administer a system of Councillor Code of Conduct complaints in accordance with the procedures adopted by Full Council in November 2013, as amended. The Council’s Complaints Procedure is contained within Part 6 of the Council’s Constitution and the sanctions currently available are set out within Section 8 (Part 6.25).

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.

Changes which arise from the consultation and supporting legislation may affect the Council’s Complaints Procedure and the sanctions available and once these are known, proposed amendments will be submitted for consideration, approval and adoption.

FINANCE AND OTHER RESOURCE IMPLICATIONS

There are no financial implications from responding to the Government Consultation on the Standards and Conduct Framework, as any response will be undertaken within existing

capacity.

USE OF RESOURCES AND VALUE FOR MONEY

External Audit expect the following matters to be demonstrated in the Council's decision making:

- (A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;*
- (B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and*
- (C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.*

As such, set out in this section the relevant facts for the proposal set out in this report.

The following are submitted in respect of the indicated use of resources and value for money indicators:

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	N/A
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	Key messages from local government failures include the absence of the right culture and understanding of the Nolan Principles and the need for greater transparency in decision making.
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	N/A

MILESTONES AND DELIVERY

The consultation opened on 18 December 2024 and runs for 10 weeks, closing on 26 February 2025. The Standards Committee at its meeting is to consider whether to submit a response to the consultation within this timeframe.

ASSOCIATED RISKS AND MITIGATION

There are no known risks for submitting a response to feed into the government's consultation exercise however, should the Council decided not to do so, there will be lost opportunity, especially as the Standards Committee has voiced its concerns on the current sanctions regime.

OUTCOME OF CONSULTATION AND ENGAGEMENT

The purpose of this report is for the Standards Committee to determine whether to respond to the national consultation exercise.

EQUALITIES

The consultation itself has conducted its own equality and inclusion assessment as this will need to be considered by Government when introducing any new proposals.

The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race religion or belief, sex, sexual orientation.

SOCIAL VALUE CONSIDERATIONS

Not applicable to this report.

IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2050

Not applicable to this report.

OTHER RELEVANT IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder	None
Health Inequalities	None
Area or Ward affected	All

ANY OTHER RELEVANT INFORMATION

None

PART 3 – SUPPORTING INFORMATION

BACKGROUND

In 2019 the Committee on Standards in Public Life proposed a number of improvements to the administration of councillor complaints. These included strengthening the sanctions available to local authorities in relation to Members who had been found to have breached the Code of Conduct. It also recommended a national standard code of conduct, and a consistent approach to convening a committee with responsibility for standards. The proposals made by the Committee in 2019 are largely contained within the consultation paper.

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.

Specific proposals being consulted upon for legislative change include:

- (a) the introduction of a mandatory minimum code of conduct for local authorities in England
- (b) 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

- (c) 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
- (d) a new category of disqualification for gross misconduct and those subject to a sanction of suspension more than once in a 5-y

In Appendix A to this report is a set of proposed answers to the specific questions which are posed, together with supporting text where appropriate. These are largely self-explanatory, but the following paragraphs set out some additional considerations in relation to the proposals.

It is proposed that the response is submitted as the Council's view on the consultation, but individual Councillors are able to send in their own responses and these could be organised within political groups as appropriate.

The introduction of a mandatory minimum code of conduct for local authorities in England would be welcome. It will provide certainty for officers and members that they are following a national scheme. This could lead to a shared understanding amongst local government officers and a uniformity of approach across the country.

The consultation refers to 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. In practice, as it is a statutory requirement for Monitoring Officers to administer a councillor complaints system and also that Councils establish a means by which the Monitoring Officer can do this, therefore delegation of powers are required to be able to administer the procedure. Local authorities will have either a Standards Committee or responsibilities of a standards committee dealt with by one of its Council Committees, at which it will receive the outcome of formal investigations, if there is evidence of a breach of the Code of Conduct. At Tendring these responsibilities sit within the Standards Committee, and it is proposed that this does not need to change.

The consultation seeks views on the publication of outcomes of all formal investigations, which would be consistent with wider Council aspirations of conducting business with openness and transparency. However, there is an element of natural justice that should be considered in relation to alleged code of conduct breaches, and it is suggested that the duty to publish material relating to complaints should not include all details of all allegations in case spurious material leads to unfair inferences against the subject Member. The preferred approach is for material to be published where there has been a process leading to formal investigation, which has led to a formal outcome, which is the current position at Tendring.

The introduction of the power for all local 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 could be considered to be necessary, however should be used in exceptional circumstances.

One of the main drawbacks of the current system is the lack of sanctions that reflect the seriousness of some breaches of a code of conduct. A new category of disqualification for gross misconduct and those subject to a sanction of suspension more than once in a 5-year period are also considered to be necessary additions to the system which will reflect the most

serious cases.

A role for a national body to deal with appeals is also proposed.

PREVIOUS RELEVANT DECISIONS TAKEN BY COUNCIL/CABINET/COMMITTEE ETC.

None

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

None

APPENDICES

Appendix A: Government Consultation

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