



Ministry of Housing,
Communities &
Local Government

Consultation outcome

Strengthening the standards and conduct framework for local authorities in England – consultation results and government response

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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/outcome/strengthening-the-standards-and-conduct-framework-for-local-authorities-in-england-consultation-results-and-government-response>

Ministerial foreword

The government is committed to greater devolution, determined to fix the foundations of local government and build a better future for local politics.

Greater devolution relies on local authorities in which elected members embody the highest standards of conduct. The public rightly demand its representatives act in their best interests, and that those who do not meet the high standards of public office expected should be held to account and appropriately sanctioned.

The 'Strengthening the Standards and Conduct Framework for Local Authorities in England' consultation sought views on a whole system reform of the standards and conduct framework for local government. The proposed reforms consulted on reflected the government's ambition to introduce a clearer and consistently applied standards and conduct framework for local government in England.

The reforms aim to ensure misconduct is dealt with swiftly and fairly across the country in every type and tier of local government – from the smallest town or parish council to the largest regional mayoral authority. We want to ensure that local government is empowered, fully accountable and deserving of people's trust and confidence.

We want local and regional government in England to attract and retain the best possible talent, and for county, town and city halls across the country to promote fair and reasonable democratic discourse, without slipping into cultures which are toxic and intimidating. There will always be room for strongly held beliefs to be represented, tested and debated, with decency and respectful behaviours and conduct.

Of note amongst the consultation responses was testimony received from those who highlighted the personal distress persistent bullying and harassment can cause for elected members and officers alike, particularly as the current regime offers no real prospect of perpetrators being properly held to account.

In response, our reforms will put victims of elected member misconduct at the centre of the system by providing a right to appeal standards decisions and ensure that both complainants and respondents are supported throughout the process of code of conduct investigations. We also want to ensure that those complained about are given fair opportunity to make representations and that due process is in place throughout the course of complaints being considered.

Frustration with the lack of meaningful sanctions and safeguards, even when elected members are under police investigation or carry out repeated breaches, was also clearly apparent amongst respondents. For a standards

regime to be fit for purpose it must provide both appropriate safeguards and sanctions.

I want to thank all the 2,092 respondents to this consultation. The results have clearly indicated there is widespread appetite for system reform and the steers we have received from respondents have shaped our decisions on the policy proposals this document confirms we will now be working to take forward.

In summary, we intend to legislate for a whole system reform of the current regime as set out in Localism Act 2011. The measures will include:

- the introduction of a mandatory code of conduct, which will include a behavioural code, for all local authority types and tiers
- a requirement that all principal authorities convene formal standards committees, to include provisions on the constitution of standards committees to ensure objectivity, accountability and transparency
- the requirement that all principal authorities offer individual support during any investigation into code of conduct allegations to both the complainant and the councillor subject to the allegation
- the introduction at the authority level of a 'right for review' for both complainant and the subject elected member to have the case reassessed on grounds that will be set out in legislation
- powers for authorities to suspend elected members for a maximum of 6 months for serious code of conduct breaches, with the option to withhold allowances during suspension for the most serious breaches and introduce premises and facilities bans either in addition or as standalone sanctions
- in response to the most serious allegations involving police investigation, or where sentencing is pending, the introduction of powers to suspend elected members on an interim basis for an initial period of 3 months which, if extended, will require regular review
- a new disqualification criterion for any elected member subject to the maximum period of suspension more than once within 5 years
- the creation of a new national appeals function, to consider appeals from elected members to decisions to suspend them and/or withhold allowances, and for complainants if they consider their complaint was mishandled. Any appeal submitted will only be permitted after complainant or elected member has invoked their 'right for review' of the local standards committee decision has been invoked and that process is completed

When this government took office, we pledged to reset the relationship with local authorities, and a key part of that commitment is to work creatively and collaboratively with all those with an interest in local government. We will

continue to engage with the sector and stakeholders whilst we develop the detail of operationalising these proposals.

I know that most local elected members are public servants working hard to help shape and deliver excellent local public services. It is for them as much as council employees and the public that we are determined to deal with those who bring local government into disrepute. In recognition of how important these reforms are to building a better future for local politics, we intend to bring forward the necessary legislation as soon as parliamentary time allows.

Alison McGovern MP

Minister for Local Government and Homelessness

Introduction

The [Strengthening the Standards and Conduct Framework for local authorities in England consultation](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) (<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>) sought views from members of the public, current and prospective local authority elected members, local government officers from all types and tiers of authorities, and local authority sector representative organisations.

The proposals and 40 consultation questions were arranged under 2 principal headings as follows:

Strengthening the Standards and Conduct framework

- mandatory minimum prescribed code of conduct
- Standards Committees
- publication of allegations and investigation outcomes
- requiring completion of investigations if an elected member stands down
- empowering individuals affected by councillor misconduct to come forward

Introducing the power of suspension with related safeguards

- length of suspension
- withholding allowances and premises and facilities bans
- interim suspension
- disqualification for multiple breaches and gross misconduct
- appeals process
- potential for a national appeals body

The [Localism Act 2011](#)

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

Every principal 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.

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 typically:

- barring members from cabinet, committee, or representative roles
- a requirement to issue an apology or undergo code of conduct training
- public criticism

Local authorities are also unable to withhold allowances from elected members who commit serious breaches of their code of conduct, and there is no explicit provision in legislation for authorities to impose premises bans or facilities withdrawals where they consider that it might be beneficial to do so.

The lack of meaningful sanctions, or the power to suspend elected members for serious code of conduct breaches, means local authorities have no effective way of dealing with more serious examples of member misconduct.

This government response document follows the order of the proposals as set out in the consultation document referred to above. Under each proposal there is:

- a headline summary of the responses received
- a summary of the policy considerations
- a statement of government's intended course of action in response

The consultation questions, a breakdown of the responses given to the multiple-choice questions, and a summary of the narrative comments respondents entered in the free text boxes can be found in the Annex.

Introduction of a mandatory code of conduct

The government consultation proposed legislating to introduce a minimum mandatory code of conduct, likely to be set out in regulations. A mandatory code with the [Seven Principles of Public Life](https://www.gov.uk/government/publications/the-7-principles-of-public-life/the-7-principles-of-public-life--2) (<https://www.gov.uk/government/publications/the-7-principles-of-public-life/the-7-principles-of-public-life--2>) at its core will ensure that every elected member, or co-opted member, in England is clear what standard of conduct and behaviour is demanded of them in all aspects of their public office.

The consistency of a shared common standard to which all will be equally held to account, and that can be reviewed and updated as required, is a necessary foundation to inspire the trust and confidence of every community councils serve.

Respondents were asked:

- if they agreed in principle (and if not provide any comment)
- if they thought local authorities should be able to add to a mandatory code
- if such a mandatory code should include a requirement for members to cooperate with investigations into code breaches

The results were conclusively in favour of government prescribing a mandatory code with 94% of respondents answering 'yes'. Some 61% of

respondents thought that there should be scope for local authorities to add to a mandatory code to reflect local circumstances.

Mindful of avoiding the risk of confusing or diluting the consistency of expected behaviour a mandatory code could provide, government has considered the latter response carefully in framing this policy response. We examined the standards and conduct framework for local government operating in the devolved nations. All 3 devolved nations (Wales, Scotland, and Northern Ireland) prescribe a mandatory code of conduct for local authority members, allowing individual local authorities to develop local guidance and/or protocols provided they align with the nationally prescribed mandatory code.

Examples of the supplementary protocols or provisions to the mandatory code authorities are adopting in the devolved nations typically relate to matters such as handling conflicts of interest, use of social media, and receipt of hospitality. Government considers it is desirable that all such matters could be incorporated into a prescribed mandatory code.

With regards to a mandatory code including the requirement for members to cooperate with investigations, 91% of respondents agreed with this proposal.

In addition, government considers ensuring that the code of conduct complaint system is used appropriately and not for vexatious politically motivated complaints the code should confirm that submitting multiple vexatious complaints is a sanctionable breach of the code.

Summary

In response to the views expressed in the consultation, the government proposes to legislate to prescribe a mandatory code by taking a power in the primary legislation to set out the code in regulations.

This will provide the opportunity for further engagement on the detailed content of the code and provide the flexibility to review and amend in future as required. Local authorities will be able to develop their own guidance and protocols which must align with the mandatory code but will not, in themselves, be part of the code or arrangements for enforcement.

The mandatory code will include a behavioural code, the requirement for elected members and co-opted members to co-operate with code of conduct investigations, and that submitting multiple vexatious complaints would be a code of conduct breach.

Standards Committees

To strengthen and support the consistent handling of misconduct allegations, government proposed that all principal authorities, and strategic authorities, should be required to convene a standards committee.

Some 91% of respondents agreed that all principal authorities should be required to form a standards committee.

Comments focused mainly on the following recurring themes:

- that without effective strengthened sanctions the requirement to form a standards committee would of itself make little impact on misconduct
- concerns about how to achieve political impartiality amongst the membership of the committee to ensure that decisions on code of conduct investigations are objective

As well as the function of receiving code of conduct investigation reports and determining as appropriate any sanction, government considers that standards committees also have a crucial role in promoting and upholding a culture of high ethical standards for an authority. Numerous respondents commented that there is a need for more to be done in this regard to emphasise a greater individual and collective responsibility for ensuring that the corporate culture of every authority rightly prioritises respectful discourse between elected and co-opted members, officers and the public.

62% of respondents agreed that sanction decisions on formal investigations into code of conduct breach allegations should be heard and taken by a standards committee. The government proposes to legislate for this.

In response to the question of whether Independent Persons^{[\[footnote 1\]](#)} and co-opted members serving on standards committees should be given voting rights, 68% agreed this is important to ensure objectivity and 63% considered that standards committees should be chaired by an Independent Person. Government considers that co-opted members should have voting rights.

Government considers that there is merit in standards committees being chaired by someone who is independent and not an elected member of the authority, but that it would not be appropriate to be the Independent Person whose role is defined in law as an advisor on standards investigations.

The Localism Act 2011 (Chapter 7, section 28(7)) requires every relevant authority to appoint at least one Independent Person, whose views must be sought and considered by the authority before it decides on an allegation

which has been investigated. There is no intention to change the role of the Independent Person.

Views expressed on ensuring fairness and objectivity and reducing incidences of vexatious complaints coalesced around the following themes:

- constituting committees to ensure political impartiality
- providing the option of appropriately strengthened sanctions to ensure that a standards committee is equipped to effectively address misconduct and that members subject to a complaint take the process seriously
- ensuring that members of standards committees receive appropriate training

Government believes that the consultation responses confirm that confidence in political impartiality of standards committees is important to ensure that every complainant and elected or co-opted member subject to a code of conduct allegation are consistently treated fairly and objectively.

To achieve political impartiality on decisions taken in response to a code of conduct investigation, the government will engage further with sector representatives on what the optimum membership arrangements for standards committees should be prior to finalising the detail of requirements in legislation.

On the question of whether local authorities should be required to publish annually a list of allegations of code of conduct breaches, and any investigation outcomes views varied. 47% considered that the public should have full access to all allegations and investigation outcomes, while 50% thought only cases in which a member is found guilty of wrongdoing should be published.

Government considers that local authorities should only be required to publish a list of code of conduct allegations following full investigation and a standards committee determination on whether to uphold the complaint or not, and as appropriate any sanction applied. This avoids the risk of allegations whilst an investigation is ongoing being in the public domain at a point when it is yet to be resolved.

The final question in the standards committee section of the consultation asked for views about whether investigations should continue to their conclusion if the member stands down before a determination on their case is arrived at, and if the investigation findings should still be published. A total of 84% of respondents agreed with this proposal.

Government considers that it is important to be consistent in holding to account any member who breaches the code of conduct or provide the opportunity for that individual to be publicly exonerated where an

investigation concludes there was no case to answer regardless of if they stand down during an investigation.

Summary

In response to the views expressed with regards to standards committees the government:

- proposes to legislate to require all relevant principal authorities to formally constitute a standards committee (or, as appropriate, a sub-committee convened for the purposes of considering code of conduct cases); and engage further with sector representatives to consider the specific requirements for the membership of standards committees prior to legislating on the matter
- will require, subject to relevant legal restrictions, any code of conduct investigation to be completed, and investigation findings and decisions arising be published, including when the investigation findings are 'no case to answer' and the member is exonerated, and in the event a member stands down during an investigation.

In addition, government will:

- engage with sector representative bodies and stakeholder to develop 'best practice' guidance on the handling of code of conduct complaint allegations
- retain the statutory responsibility of promoting and maintaining high standards of conduct by elected members and co-opted members on the authority and engage with sector representative organisations to consider developing guidance on what more could be done by individual authority standards committees to deliver on this responsibility

Empowering individuals affected by councillor misconduct to come forward

Government considers that the standards and conduct framework both supports and underpins the principle of accountability, an important aspect of which is to be open and supportive to challenge, and support those who call out examples of behaviour that falls below the standards expected.

The current standards and conduct framework contains virtually no reference to the role of complainants or victims of misconduct in the

system. We believe this represents an imbalance that needs to be corrected. A consequence of encouraging complainants to come forward will likely increase the volume of complaints, but we consider that giving victims of misconduct the faith that they will be supported in pursuing legitimate complaints will ultimately result in a stronger standards and conduct regime.

The consultation asked local authorities to provide a figure for the average number of code of conduct complaints received against elected members over a 12-month period. 705 respondents answered this question. There was a very wide variation in the number of complaints reportedly received which likely reflects whether the respondent local authority type was a principal authority with multiple parishes in their area. Responses ranged from 0 to 174 average complaints. 48% of respondents noted receiving between 1 and 10 complaints, whilst 14% said they received more than 10 complaints. 37% said they had received no complaints.

352 of the 705 respondents provided a breakdown of the number of complaints made by officers, other elected members, the public, or any other source. 55% of complaints came from the public. 12% were complaints from other elected members, 30% were complaints from officers.

The consultation then asked anyone who currently works or had worked within a local authority if they had been a victim of (or witnessed) misconduct by an elected member but felt unable to come forward to explain why that was the case. Many of the 676 responses to this question describe the circumstances of the misconduct experienced and the considerable personal impact. The recurrent themes that emerged included:

- a sense that a code of conduct complaint would be pointless given the lack of meaningful sanctions in the current system is no real deterrent
- a fear that the misconduct behaviours, frequently cited as bullying, would only likely escalate and be personally directed at them

A high proportion of respondents to this question came from the parish council sector. Parish clerks often work alone as the only paid officer or as a member of a very small officer team. They may live in the same community where parish councillors reside and will likely have a higher degree of interaction with the elected members or co-opted members than officers working in principal and upper tier authorities. All these factors serve to amplify the personal impact on parish council staff.

630 respondents replied to the question asking if they had come forward with a complaint what support was offered, and 1324 responded to what in addition could be offered to support individuals raising a complaint.

In summary, the views expressed were as follows:

- the majority reported receiving little or no support – though a handful did indicate they had received support from the Monitoring Officer, Independent Person or other council staff
- numerous respondents, both complainants and respondent elected members, commented that they felt anxious, isolated and fearful during the process
- they wanted to feel confident that they would be taken seriously and listened to
- that if effective sanctions and consequences for misconduct were introduced there was a need to have greater confidence in the independence of the decision makers on cases
- they wanted the assurance that appropriate confidentiality and anonymity for the complainant would be applied
- that access to one-to-one buddy support as needed at key stages of the process would be helpful

In response to the question of whether elected members had ever been subject to a code of conduct complaint and, if so, did they feel they received appropriate support, 377 comments were received.

In summary the comments reveal the following:

- there is no consistency in the level of personal support offered to the elected or co-opted member in a code of conduct complaint situation – a few reported receiving support from either or both the Monitoring Officer or the Independent Person but most stated that they had received no support
- a significant proportion reported that the complaints were vexatious and politically motivated so had largely not been carried forward for investigation

Government considers that for a standards and conduct framework to operate fairly, support should be available to all those involved in an investigation.

As set out above, government intends to develop best practice guidance on complaint handling which will specifically include communicating with all those involved to ensure support is available at key stages be that with regards to mediation, interacting with the investigation, or following a complaint outcome decision.

Summary

As referred to in the section below entitled [Appeals and a national appeals function](#), in response government plans to:

- legislate to provide both complainant and the respondent elected or co-opted member with a 'right for review' of standards committee investigation decisions
- set out the grounds in legislation for assessing eligibility to consider a right for review request at the local level

In addition, government will:

- include recommended actions to support those affected through the complaint and investigation process in the best practice guidance we have committed above to develop with sector representative organisations and stakeholders
- investigate with key stakeholders and sector representative organisations the case for creating an independent confidential helpline support offer for complainants

Introducing the sanction of suspension

The consultation proposed the introduction of the power for authorities to suspend elected members 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.

Government considers a serious code of conduct breach would be behaviours that pose a significant reputational risk to the council, undermine the public's trust in local democracy, and/or where evidence exists that the behaviours are negatively impacting the health, wellbeing, and safety of fellow elected members and officers.

Most respondents (87%) agreed that local authorities should be given the power to suspend members. 60% agreed that a decision to suspend should be made by the standards committee, whilst 27% thought the decision should be referred to an independent body. 647 comments were received on the question of whether the decision to suspend should lie with the local authority standards committee or be for an independent body.

Broadly, the majority of comments echoed the following themes:

- concerns that if the decision to suspend is vested in a standards committee, the committee needs to be politically neutral and fully transparent
- a view that a right to appeal a suspension decision should be available and that should sit with an independent body

As referred to in the [Standards Committee section above](#), government proposes to ensure the political independence of code of conduct case decisions, and in the [Appeals section below](#) the establishment of a national function creating a route to appeal a local decision once the local 'right to review' process has been completed.

Government considers these measures will create the necessary safeguards to ensure independence of decision-making on any decision to suspend. We will be working at pace in collaboration with key stakeholders and sector representative bodies to finalise the operational details of the national appeals function prior to bringing forward legislation on the matter.

If it were to be deemed that suspension is an appropriate response to a code of conduct breach, 60% of respondents considered councils should be required to put in place an alternative point of contact for constituents, whilst 31% considered it should be for councils to determine such arrangements.

Government considers that it should be for councils to make their own arrangements for managing constituent representation during a period of elected member suspension, as appropriate to the length of suspension and any special responsibility roles (committee membership, cabinet portfolio member et cetera) which may apply.

On the question of the maximum length of suspension, 51% of respondents were of the view that government should set a maximum of 6 months. 15% considered that the maximum period should be different and 21% did not think the government should prescribe the maximum period. Respondents were asked to opine on what the maximum length should be if different from 6 months, there were 371 responses to this part of the question. Whilst there was a range of views, few thought it should be less than 6 months with the most popular alternative length of maximum suspension suggested as 12 months.

The government's view is that code of conduct breaches serious enough to warrant a sanction of suspension would likely occur infrequently and 62% of respondents agreed with this premise.

The consultation also sought views on whether councils should have the option to withhold allowances from suspended elected members and 87% of respondents agreed. Government considers that authorities should have the option of withholding allowances from suspended elected members and that a decision to do so or not should rightly be at the discretion of the standards committee, in line with the best practice guidance the government will be issuing, as referred to above in the [Standards Committee section](#).

With regards to premises and facilities bans, 88% agreed that authorities should have the power to implement these. Government believes that this power should be available as a safeguarding measure where the nature of

the misconduct may pose a risk to the safety and wellbeing of other elected members, staff or members of the public.

Summary

In response, the government proposes to legislate to:

- provide authorities with a power to suspend elected members 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
- confirm that a decision to sanction with a period of suspension, and/or institute premises and facilities bans can only be taken by a standards committee, following receipt and consideration of a formal investigation report, and following consideration of the views of the Independent Person
- the legislation will enable standards committees to have the discretion to withhold elected member allowances and ban disruptive members from using council facilities or entering property, either as standalone sanctions or in addition to suspension

Interim suspension

The consultation proposed a power for interim suspension when elected members, or co-opted members, are subject to complex investigations into serious code of conduct breaches, for example which may be referred to the police to investigate or be pending a court hearing.

There are, from time-to-time, cases that arise when an elected member is subject to allegations which involve police investigations, for example where the misconduct involves allegations of a sexual offence, assault or fraudulent behaviour.

When the media reports on elected members being arrested or awaiting sentencing, such cases are often brought to the attention of Ministers by concerned residents and Members of Parliament. In the context of the standards and conduct framework, of key consideration is if the alleged crime took place in the context of the elected member's public role or in their private life. However, it is recognised that at the point the issue has become a matter of public interest, if the alleged crimes are of a serious nature there may be safeguarding and safety considerations that the authority may need to consider

The consultation proposal stated that elected members on interim suspension would continue to receive allowances until an investigation, or a criminal investigation concludes. Based on the principle of innocent until proven guilty, the decision to impose an interim suspension would not therefore represent a pre-judgement of the validity of an allegation.

In addition, it was proposed that:

- interim suspensions should initially be for a maximum of 3 months, and, after that period, the relevant standards committee should review the case to decide whether it is in the public interest to extend
- as appropriate, the period spent on interim suspension may be deducted from any period of suspension a standards committee subsequently imposes

79% of respondents agreed with the proposals to suspend on an interim basis and 73% agreed that it should be for an initial period of 3 months and then subject to review. Free text boxes were provided for both questions (Q28 and Q29) with 631 and 350 comments received respectively. The headline points raised included:

- concern that complex investigations or allegations that involve police investigations and ultimately a court judgement can take many months to come to trial and could result in the subject member being on interim suspension for a significant period
- that this is a sensible proposal to safeguard the subject member, staff and mitigate reputational risk whilst investigations are ongoing
- that it is appropriate to mirror the common practice in employment settings of interim suspension whilst investigations are conducted
- that it is right that allowances should not be withheld during interim suspension to comply with the 'innocent until proven guilty' principle

Government considers that in the circumstances where interim suspension can be deemed appropriate, as in employment settings, a local authority's decision to use the power to interim suspend should only be taken to reasonably protect any of the following:

- the investigation – if there was a risk of someone damaging evidence or influencing witnesses
- the smooth running of the authority – if there was a genuine risk to the safety of other elected members, officers, property or business
- the person under investigation or complainant

The final consultation question asked if at the point when the initial 3-month period of interim suspension was reached and a standards committee

decided to extend there should be safeguards to ensure interim suspension was not allowed to run on unchecked.

72% agreed that there should be safeguards, but 23% considered that authorities know the details of individual cases and should be trusted to act responsibly.

Those that agreed that there should be safeguards were asked to comment on what they thought might be needed to ensure unlimited interim suspension was not misused. 1908 comments were received in response to this question, the headline summary of points included:

- that the decision to confer an interim suspension should be made by an independent body
- suggesting a defined period for ongoing reviews, for example monthly or 3 monthly should be prescribed if the initial period of interim suspension was extended
- concerns that safeguards (such as a requirement to evidence that investigations were actively ongoing) should be put in place to ensure that interim suspension was not politically weaponised
- that this should only be used for the most egregious cases
- suggestion that a period of interim suspension should not exceed 6 months as per the suspension proposal, as longer than 6 months would risk incurring Section 85 of the Local Government Act 1972 'vacation of office by failure to attend meetings'

Summary

In response the government plans to legislate to give authorities the power to place an elected member or co-opted member on interim suspension in response only to serious code of conduct allegations subject to external investigation, from the police or other bodies within the criminal justice system, and/or where a court hearing and sentencing is awaited i.e. cases where there are legitimate safeguarding considerations, and the council is not in control of the pace and resolution of the investigation.

It also plans to legislate to confirm that the grounds to justify a standards committee taking a decision to impose interim suspension must only take place if the matter is subject to law enforcement investigation and include:

- **The seriousness of the allegations.** Meaning the allegations against the individual must be of a serious criminal nature and subject to police investigation/pending sentencing

- **Risk of Harm.** Where the nature and seriousness of the allegations is such that if the elected member were to continue in their role during the investigation, it could result in a risk of harm to either the public, the complainant, the subject member, or the authority and its reputation.

The legislation will set the maximum period of interim suspension at an initial 3 months and require ongoing review if the case remains unresolved after that initial period.

Government will engage further with sector representative bodies on the question of whether authorities should be required to publish on their website a notice of decision to place an elected member or co-opted member on interim suspension whilst investigations are ongoing and, as appropriate, a notice exonerating an elected member placed on interim suspension in the event the external investigation results in no charges being brought or when a court decides not to uphold the charge against the subject member.

Disqualification for multiple breaches and gross misconduct

Currently the law disqualifies anyone from standing or sitting as an elected member if they have been convicted of any offence for which they 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 but when the individual has been made subject to the [notification requirements under the Sexual Offences Act 2003](https://www.gov.uk/government/publications/sexual-offences-act-2003-notification-requirements-england-and-wales-regulations-2012) (<https://www.gov.uk/government/publications/sexual-offences-act-2003-notification-requirements-england-and-wales-regulations-2012>) (i.e. placed on the sex offenders register).

The consultation sought views on proposals that elected members who are suspended more than once during a 5-year period should be subject to disqualification, and if immediate disqualification should apply to instances of gross misconduct (for example, theft or physical violence impacting the safety of other members and/or officers).

With regards to the proposal to introduce disqualification for anyone subject to the sanction of suspension twice within a 5-year period 60% agreed, 19%

disagreed and 15% agreed but considered disqualification should be for a different length of time and/or with a different timeframe.

Respondents were also asked to provide any comments on the proposal, and there were a range of views. In summary, those most often repeated included:

- concern about the severity of this proposal which would give standards committees the power to override an elected member's democratic mandate
- the suggestion disqualification should only apply when the suspension had been for the maximum proposed period of 6 months, or alternatively 3 months or more
- that in the event of code of conduct investigation decision/outcomes being published it should be for the electorate to decide at the next election if an individual no longer represents them
- queries about why the proposal applies to suspension twice within a 5-year period, when habitually an electoral term in local government is 4 years
- that disqualification should apply for the first instance of serious misconduct and that if someone has seriously transgressed, they are not fit for public office and the period should be longer than 5 years

Government has thought carefully about the responses to this question, including looking at what currently applies in the devolved nations. In Scotland, the [Ethical Standards in Public Life \(Scotland\) Act etc. Act 2000](https://www.legislation.gov.uk/asp/2000/7/section/19) (<https://www.legislation.gov.uk/asp/2000/7/section/19>) provides a framework for the conduct of elected members and details the sanctions available to the Standards Commission for Scotland to impose when a hearing finds a councillor has contravened the code of conduct. These provisions include powers to disqualify an elected member for a period not exceeding 5 years, from being, or from being nominated for election. In Wales the power to disqualify a councillor for up to 5 years for serious code of conduct breaches also exists, and rests with the Adjudication Panel for Wales.

The government's view is that introducing a measure to disqualify an elected member subject to suspension twice for serious misconduct is supported by the safeguards in the full suite of standards reforms it intends to pursue. Those strengthened safeguards being a universally applied mandatory code, best practice procedures for code of conduct complaint handling, the requirement for formal political neutral standards committee, a respondent's right to review a standards committee decision, and provisions to then take a final appeal of the decision to a national appeals function.

Government also considers that, in view of the consultation responses, the disqualification for 2 periods of suspension should only apply if those periods of suspension are both for the maximum period of 6 months. This

will ensure that disqualification would only apply to at least 2 incidents of the most serious misconduct occurring within a 5-year timeframe.

The 5-year timeframe is specified to bridge the period between the 4-year electoral cycle to ensure that where serious misconduct repeatedly occurs by someone who gets re-elected there is a route to address the cumulative effect of the misconduct.

On the question of immediate disqualification for gross misconduct, provided there has been an investigation of the incident and the elected member has had a chance to respond before a decision is made, 82% agreed. Comments received in response to this question tended to be polarised around the 2 following themes:

- that the same rules that apply in an employment setting regarding gross misconduct should also apply to elected members
- that it is an unnecessary measure, and the proposed interim suspension could suffice in such cases awaiting outcome of police investigation following arrest or sentencing

Considering the government's intention to introduce interim suspension for serious code of conduct breaches subject to police investigation and/or awaiting sentencing from the courts, it is not in addition appropriate to introduce disqualification on the grounds of gross misconduct. However, government does consider that in cases of serious misconduct repeatedly occurring councils do need a means of curbing egregious disruptive behaviour.

Summary

In response the government intends to introduce legislation to disqualify an elected member or co-opted member if they receive a sanction of suspension for the maximum period of 6 months twice over a 5-year period.

Appeals and a national appeals function

The consultation proposed that any elected member subject to a decision to suspend them should have the right to appeal, that an appeal should be invoked within 5 working days of notification of a suspension decision and that an appeal hearing should be conducted within 28 working days.

A significant majority of respondents (86%) agreed that elected members should have the right to appeal a decision to suspend them. 53% agreed with the proposals that an appeal should be made within 5 working days and a further 36% considered that a different length of time within which to bring an appeal should apply. Views were invited on the latter point and ranged between 7 working days to 100, with the most popular alternative to the proposed 5 working days being 10 or 14.

Respondents were also asked if complainants should have a right of appeal if a decision was taken not to investigate their complaint and if they should have a right of appeal when an allegation of misconduct is not upheld. The majority answered yes to both questions with 53% agreeing to the first question and 46% agreeing to the second. Those not in agreement were 30% and 35% respectively. For those who responded 'yes' to either of these questions they were then invited to give their view on the most suitable route of appeal for either or both situations. Comments received included:

- a suggestion that complainants should receive a notification of the grounds for refusal to investigate their complaint to help inform a decision to appeal and as appropriate aid them to prepare their appeal
- concerns about the independence of any council appeal hearing – and that an appeal panel should enable 'a fresh set of eyes' or that appeals could be heard by a neighbouring authority
- suggestion that there should be prescribed qualifying 'grounds for appeal'
- concerns about the resource implications of servicing and managing appeals

In response to the question of whether appeals panels should be in-house within authorities or whether there was a need for an external national function to hear appeals to the sanction of suspension, 69% agree with the statement that an external national body would help uphold impartiality, with 25% of the view that appeals should be held by an internal panel. And 56% thought both member and claimant appeals should be in scope.

As referenced above, the government does consider that both complainants and the subject elected member should have the right for review a standards committee decision following investigation. This right of review would be conducted at a local level and only those cases that have been the subject of a review will be eligible for then progressing to the national appeals function. We will work with stakeholders to finalise grounds for exercising the right for review.

In the current standards and conduct regime there is no route to appeal code of conduct standards decisions, though some authorities already operate a 'right to review' within their complaint handling processes.

The devolved nations have broadly similar grounds for appeal including procedural errors, new evidence or a disproportionate or unfair sanction.

Government has listened carefully to the range of views on the establishment of a national appeals function and considers this is necessary. Government is keen to ensure that it operates coherently and supportively with the delivery of the strengthened standards and conduct regime locally.

Eligible appeals will be those cases where either complainant or subject member has already invoked and completed the 'right to review' process with the principal authority standards committee.

Summary

In response, government plans to legislate on arrangements for appeals to code of conduct decisions following further consideration of the detailed requirements to support the proposed local 'right to review' code of conduct case decisions, and the scope and scale of a national appeals function.

Annex - consultation responses report

Responses to this survey: 2092

1: In what capacity are you responding to this consultation?

There were 2086 responses to this question.

| Option | Total |
|-------------------------------------|-------|
| An elected member of a council body | 33.2% |
| A council officer | 35.6% |
| A council body | 11.8% |
| A member of the public | 15.2% |

| Option | Total |
|--------------------------------|-------|
| A local government sector body | 3.9% |
| Not answered | 0.3% |

Please indicate the local authority type:

There were 1687 responses to this question.

| Option | Total |
|--|-------|
| Town or Parish Council | 56.9% |
| District or Borough Council | 12% |
| Unitary Authority | 8% |
| County Council | 2.2% |
| Combined Authority / Combined County Authority | 0.4% |
| Fire and Rescue Authority | 0% |
| Police and Crime Panel | 0% |
| Other local authority type | 1.1% |
| Not answered | 19.4% |

2: Do you think the government should prescribe a mandatory minimum code of conduct for local authorities in England?

There were 2053 responses to this question.

| Option | Total |
|---------------------|--------------|
| Yes | 93.9% |
| No | 4.2% |
| Not answered | 1.9% |

There were 157 narrative responses to this question.

- whilst some respondents indicated that they felt the current system is adequate and therefore there is no need for a mandatory code, many of the comments focused on what the composition of the code should look like
- some respondents argued that there should be some ability at the local level to build upon the provisions of a national code, whereas others were clear that there should be no local variation
- there was a clear sense that the Nolan principles remain important and that any mandatory code should reflect and reinforce the values to which those principles hold those in public office
- there was a range of views on who should ultimately set the code, reinforcing importance of the government consulting further on its provisions

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?

There were 2010 responses to this question.

| Option | Total |
|--|--------------|
| Yes – it is important that local authorities have flexibility to add to a prescribed code | 61.2% |
| No – a prescribed code should be uniform across the country | 29.3% |
| Unsure | 5.6% |
| Not answered | 3.9% |

4: Do you think the government should set out a code of conduct requirement for members to cooperate with investigations into code breaches?

There were 2049 responses to this question.

| Option | Total |
|--------------|-------|
| Yes | 91.2% |
| No | 4% |
| Unsure | 2.7% |
| Not answered | 2.1% |

5: Does your local authority currently maintain a standards committee?

There were 1953 responses to this question.

| Option | Total |
|--------------|-------|
| Yes | 60.1% |
| No | 33.3% |
| Not answered | 6.6% |

There were 631 narrative responses to this question:

- a number of respondents noted that whilst their authority or principal authority maintains a standards committee, it is in its current form ineffective in dealing with instances of member misconduct where it arises
- an increased focus on independence was noted as being important in improving effectiveness, suggesting support for measures to ensure that a requirement for independent members should be built into any

measures governing the constitution of committees with responsibility for member standards

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

There were 2029 responses to this question.

| Option | Total |
|--------------|-------|
| Yes | 90.8% |
| No | 6.2% |
| Not answered | 3% |

There were 388 narrative responses to this question:

- a key theme of the responses to this question was an emphasis on ensuring impartiality and protecting against political bias when adjudicating on potential code of conduct breaches, consistent with the emphasis on fairness and independence that runs through the comments on many other questions
- several respondents felt that mandating standards committees would improve the overall effectiveness of the standards process, although some emphasised a need for flexibility around how standards committees are structured
- a number of respondents made the point that whilst there is a need for a committee responsible for standards, it could form part of another committee's remit rather than necessitating a standards committee

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?

There were 2035 responses to this question.

| Option | Total |
|---|-------|
| Yes, decisions should only be heard by standards committees | 62.2% |
| No, local authorities should have discretion to allow decisions to be taken by full council | 23.4% |
| Unsure | 11.7% |
| Not answered | 2.7% |

8: Do you agree that the Independent Person and co-opted members should be given voting rights?

There were 2031 responses to this question.

| Option | Total |
|--|-------|
| Yes – this is important for ensuring objectivity | 68.3% |
| No – only elected members of the council in question should have voting rights | 20.3% |
| Unsure | 8.5% |
| Not answered | 2.9% |

9: Should standards committees be chaired by the Independent Person?

There were 2026 responses to this question.

| Option | Total |
|--------|-------|
| Yes | 62.5% |

| Option | Total |
|--------------|-------|
| No | 15.6% |
| Unsure | 18.7% |
| Not answered | 3.2% |

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

There were 857 narrative responses to this question:

- the need to protect against political bias in order to ensure fairness and objectivity was once again prevalent in the response to this question
- specifically in regard to reducing incidences of vexatious complaints, there was a range of suggestions including a greater focus on mediation, barring vexatious complainants from registering further complaints, and training for Monitoring Officers to identify vexatious complaints
- the point raised most frequently by respondents was that there is a need to ensure that local authorities have a clear and consistent process for identifying and addressing vexatious complaints

11: Should local authorities be required to publish annually a list of allegations of code of conduct breaches, and any investigation outcomes?

There were 2017 responses to this question.

| Option | Total |
|--|-------|
| Yes - the public should have full access to all allegations and investigation outcomes | 46.6% |
| No - only cases in which a member is found guilty of wrongdoing should be published | 49.8% |

| Option | Total |
|--------------|-------|
| Not answered | 3.6% |

There were 663 narrative responses to this question:

- there was a wide range of comments for this question, ranging from the view that all code of conduct breach allegations and outcomes should be published, to none at all
- many people felt there should be some degree of balance – views expressed included publishing breach details only where the complaint is upheld, publishing the allegation whilst maintaining the anonymity of both parties, and publishing a periodic summary of cases rather than the full detail
- some respondents felt that exonerations should be published in cases where complaints are not upheld, and others felt that decisions relating to what is published should be determined on a case-by-case basis

12: Should investigations into the conduct of members who stand down before a decision continue to their conclusion, and the findings be published?

There were 2055 responses to this question.

| Option | Total |
|--------------|-------|
| Yes | 80.3% |
| No | 8.2% |
| Unsure | 9.7% |
| Not answered | 1.8% |

13: If responding as a local authority, what is the average number of complaints against elected members that you receive over a 12-month period?

Number of complaints

There were 705 responses to this part of the question. Responses ranged from 0 to 174 average complaints, with an average of 6.7 complaints over a 12-month period. 48% of respondents noted receiving between 1 and 10 complaints, whilst 14% said they received more than 10 complaints. 37% said they had received no complaints.

13a: For the above, where possible, please provide a breakdown for complaints made by officers, other elected members, the public, or any other source:

352 respondents were able to accurately breakdown their average complaints over a 12-month period for complaints made by officers, other elected members, the public, or any other source. 55% of complaints came from the public. 12% were complaints from other members, 30% were complaints from officers.

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?

There were 1293 responses to this question.

| Option | Total |
|--------------|-------|
| Yes | 29.3% |
| No | 32.5% |
| Not answered | 38.2% |

There were 676 narrative responses to this question:

- the comments associated with this question pointed strongly towards a lack of faith in the current standards framework amongst respondents
- many indicated that they had witnessed or been subjected to bullying or harassment, but did not come forward because they feared reprisal, felt that the current sanctions available are not sufficient to make it

worthwhile, were concerned about the influence elected members have over officers, or feared it would harm their standing in the community

- some respondents also highlighted cultural barriers within their council that prevented them coming forward

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

There were 887 responses to this question.

| Option | Total |
|---------------------|--------------|
| Yes | 10.5% |
| No | 31.9% |
| Not answered | 57.6% |

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

There were 377 narrative responses to this question:

- many respondents to this question restated their 'yes' or 'no' response
- of those who did expand upon this, several cited a lack of clarity in the investigative process. A lack of support for independent members without party or group support was also raised

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?

There were 630 narrative responses to this question:

- in responding to this question, many respondents took the opportunity to note that they felt they received no support when coming forward
- a significant proportion of respondents noted that they either did receive, or would have liked to receive, support from their local authority, whilst others referenced the importance of independent support during the

process, including in the form of impartial mediators or emotional support services

- others mentioned the importance of the Monitoring Officer in the process and their role in triaging complaints to filter out those which may be vexatious

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?

There were 1326 narrative responses to this question:

- of particular note amongst the comments attached to this question is the number of respondents who emphasised the importance of giving complainants confidence that there are real consequences for misconduct to make coming forward worthwhile. Associated with this, many respondents noted that clear sanctions need to be in place to ensure appropriate action can be taken
- a number of respondents called for clearer process, and noted that investigations should be completed in a timely manner. Others talked about the importance of there being some element of independence to the process and that complainants should be given appropriate support including anonymity where appropriate

18: Do you think local authorities should be given the power to suspend elected members for serious code of conduct breaches?

There were 2039 responses to this question.

| Option | Total |
|--|--------------|
| Yes – authorities should be given the power to suspend members | 86.4% |
| No – authorities should not be given the power to suspend members | 6.6% |

| Option | Total |
|--------------|-------|
| Unsure | 4.5% |
| Not answered | 2.5% |

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?

There were 2023 responses to this question.

| Option | Total |
|---|-------|
| Yes - the decision to suspend for serious code of conduct breaches should be for the standards committee | 60% |
| No - a decision to suspend should be referred to an independent body | 27.4% |
| Unsure | 9.3% |
| Not answered | 3.3% |

There were 650 narrative responses to this question:

- a significant number of respondents to this question emphasised the importance of impartiality and protections against political bias where the sanction of suspension is concerned, with some respondents suggesting that an independent body would provide this impartiality and protect against misuse
- others felt that a peer-led process for considering the sanction of suspension would be most appropriate, whilst others felt that decisions around suspension should be taken by full council
- whilst the prevailing theme was in relation to impartiality, some respondents did note concerns that vesting this process in an independent body may lead to delays in the process

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?

There were 2027 responses to this question.

| Option | Total |
|---|--------------|
| Yes – councils should be required to ensure that constituents have an alternative point of contact during a councillor's suspension | 59.4% |
| No – it should be for individual councils to determine their own arrangements for managing constituents' representation during a period of councillor suspension | 31.2% |
| Unsure | 6.3% |
| Not answered | 3.1% |

21: If the government reintroduced the power of suspension do you think there should be a maximum length of suspension?

There were 2010 responses to this question.

| Option | Total |
|--|--------------|
| Yes – the government should set a maximum length of suspension of 6 months | 51.4% |
| Yes – however the government should set a different maximum length (please specify) | 15.5% |
| No – I do not think the government should set a maximum length of suspension | 21.1% |

| Option | Total |
|--------------|-------|
| Unsure | 8.1% |
| Not answered | 3.9% |

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

There were 371 responses to this part of the question. 51% of respondents were of the view that government should set a maximum of 6 months. 15% considered that the maximum period should be different and 21% did not think the government should prescribe the maximum period. Whilst there was a range of views, few thought it should be less than 6 months with the most popular alternative length of maximum suspension suggested as 12 months.

22: If yes, how frequently do you consider councils would be likely to make use of the maximum length of suspension?

There were 1841 responses to this question.

| Option | Total |
|---|-------|
| Infrequently – likely to be applied only to the most egregious code of conduct breaches | 61.7% |
| Frequently – likely to be applied in most cases, with some exceptions for less serious breaches | 11.6% |
| Almost always – likely to be the default length of suspension for code of conduct breaches | 5.2% |
| Unsure | 9.5% |
| Not answered | 12% |

23: Should local authorities have the power to withhold allowances from suspended councillors in

cases where they deem it appropriate?

There were 2032 responses to this question.

| Option | Total |
|--|--------------|
| Yes – councils should have the option to withhold allowances from suspended councillors | 86.5% |
| No – suspended councillors should continue to receive allowances | 6% |
| Unsure | 4.6% |
| Not answered | 2.9% |

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?

There were 2030 responses to this question.

| Option | Total |
|--|--------------|
| Yes – premises and facilities bans are an important tool in tackling serious conduct issues | 88.3% |
| No – suspended councillors should still be able to use council premises and facilities | 4.8% |
| Unsure | 3.9% |
| Not answered | 3% |

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?

There were 2029 responses to this question.

| Option | Total |
|---------------------|--------------|
| Yes | 70% |
| No | 13.4% |
| Unsure | 13.6% |
| Not Answered | 3% |

26: Do you think the power to suspend councillors on an interim basis pending the outcome of an investigation would be an appropriate measure?

There were 1990 responses to this question.

| Option | Total |
|--|--------------|
| Yes, powers to suspend on an interim basis would be necessary | 78.8% |
| No, interim suspension would not be necessary | 16.3% |
| Not answered | 4.9% |

Do you think the power to suspend councillors on an interim basis pending the outcome of an investigation would be an appropriate measure? Comments.

There were 589 narrative responses to this question:

- a large number of responses to this question focused on the need to ensure that whilst interim suspension receives broad support, it should only be used in exceptional circumstances
- many respondents emphasised that it should be tied to the severity of the case, further reinforcing the view that interim suspension should not be invoked lightly, whilst some spoke of the value of guidance to support

local authorities in understanding when interim suspension is or is not appropriate

- those respondents who do not favour the introduction of interim suspension noted the principle of assuming the accused is innocent until proven guilty

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?

There were 2007 responses to this question.

| Option | Total |
|---|--------------|
| Yes - the option to institute premises and facilities bans whilst serious misconduct cases are investigated is important | 74.4% |
| No - members whose investigations are ongoing should retain access to council premises and facilities | 16.8% |
| Unsure | 4.7% |
| Not answered | 4.1% |

28: Do you think councils should be able to impose an interim suspension for any period of time they deem fit?

There were 1979 responses to this question.

| Option | Total |
|---------------------|--------------|
| Yes | 43.5% |
| No | 51.1% |
| Not answered | 5.4% |

There were 632 narrative responses to this question:

- the most prevalent views expressed by respondents to this question focused on the need for appropriate safeguards
- many respondents noted that interim suspension should include clearly defined time limits, and that there should be a focus on quick resolutions to investigations to avoid protracted periods of interim suspension
- others noted the need for regular review points and reiterated the need for clear guidance. Those who are less keen on the introduction of interim suspension cited concerns that it could be used as a sanction in and of itself

29: Do you agree that an interim suspension should initially be for up to a maximum of 3 months, and then subject to review?

There were 1965 responses to this question.

| Option | Total |
|--------------|-------|
| Yes | 72.5% |
| No | 21.4% |
| Not answered | 6.1% |

There were 350 narrative responses to this the question:

- respondents to this question again noted the importance of quick resolution to investigations to avoid protracted interim suspension periods, and reiterated that it is a measure which should only be used in exceptional circumstances
- some respondents expressed the view that there should be no extension to a period of interim suspension beyond the initial time allocated, whilst others believe that any interim suspension should never exceed the maximum length of full suspension

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?

There were 1980 responses to this question.

| Option | Total |
|---|--------------|
| Yes – there should be safeguards | 71.8% |
| No – councils will know the details of individual cases and should be trusted to act responsibly | 22.8% |
| Not answered | 5.4% |

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

There were 1099 narrative responses to this question:

- many of the comments under this question reiterated the view that there should be time limits attached to interim suspension, alongside regular review points
- respondents also restated the view that any power of interim suspension should be accompanied by guidance, and that there should be an element of independence built into the process for deciding if interim suspension is appropriate in any given case

31: Do you think councillors should be disqualified if subject to suspension more than once?

There were 1956 responses to this question.

| Option | Total |
|---|--------------|
| Yes – twice within a 5-year period should result in disqualification for 5 years | 59.6% |

| Option | Total |
|--|-------|
| Yes – but for a different length of time and/or within a different timeframe (please specify) | 14.7% |
| No - the power to suspend members whenever they breach codes of conduct is sufficient | 19.2% |
| Not answered | 6.5% |

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

There were 303 responses to this part of the question. The most common alternative the proposed 5 years was 3 years (24.7%), closely followed by 4 years (23.7%). A smaller number of respondents (17.5%) considered that disqualification should apply for more than one suspension over a period of 1 or 2 years, whilst some proposed 10 years (10.5%). 10.2% of respondents felt disqualification should be for more than one suspension over a period of greater than 10 years.

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

There were 203 responses to this part of the question. The most common alternative to the proposed 5 years' length of disqualification was 4 years (23.1%), followed by 3 years (14.8%). A smaller number of respondents (8.8%) considered that a disqualification period of 1 or 2 years was more appropriate, whilst 18.7% felt that a more punitive disqualification period of 10 years should be imposed. 16.2% of respondents felt disqualification should be for a period of greater than 10 years.

Do you think councillors should be disqualified if subject to suspension more than once? Comments

There were 485 narrative responses to this question:

- as with interim suspension, a significant proportion of those who left comments indicated that they believe disqualification should only be used in exceptional circumstances
- whilst there was support for disqualification for multiple breaches of the code of conduct which result in suspension, a number of respondents suggested that disqualification should be reserved for two or more lengthy periods of suspension to avoid situations in which a member is disqualified too readily
- in terms of the period of time for which the disqualification should apply, amongst the minority who do not support disqualification for a 5-year

period, a number of respondents suggested that there should instead be alignment with the member's term of office

- some comments suggest more consideration is needed before broadening the existing disqualification criteria, whilst some respondents expressed the view that only the public should decide who represents them

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?

There were 2018 responses to this question.

| Option | Total |
|---------------------|--------------|
| Yes | 82.1% |
| No | 7.9% |
| Unsure | 6.5% |
| Not answered | 3.5% |

There were 476 narrative responses to this question:

- many of the responses to this question reiterated the view that disqualification should only be used in exceptional circumstances, and that there should be appropriate safeguards in place to protect against misuse
- respondents who are unsupportive of disqualification raised a range of views, including the suggestion that serious misconduct should be dealt with via the criminal justice system, that it would be imperative for guilt to be proven, and that suspension may be more appropriate
- a number of respondents were supportive of disqualification for gross misconduct on the basis that there should be parity with what would happen in an employment setting

33: Should members have the right to appeal a decision to suspend them?

There were 2020 responses to this question.

| Option | Total |
|--|-------|
| Yes - it is right that any member issued with a sanction of suspension can appeal the decision | 86.1% |
| No – a council's decision following consideration of an investigation should be final | 8.2% |
| Unsure | 2.3% |
| Not answered | 3.4% |

34: Should suspended members have to make their appeal within a set timeframe?

There were 1922 responses to this question.

| Option | Total |
|---|-------|
| Yes – within 5 days of the decision is appropriate to ensure an efficient process | 53.2% |
| Yes – but within a different length of time (please specify) | 35.6% |
| No – there should be no time limit for appealing a decision | 3.1% |
| Not answered | 8.1% |

If you think the government should set a different appeals timeframe, what should this be, in days?

There were 738 responses to this question. Views ranged between 7 working days to 100, with the most popular alternative to the proposed 5 working days being 10 or 14.

35: Do you consider that a complainant should have a right of appeal when a decision is taken not to investigate their complaint?

There were 2014 responses to this question.

| Option | Total |
|---------------------|--------------|
| Yes | 52.9% |
| No | 30.1% |
| Unsure | 13.3% |
| Not answered | 3.7% |

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

There were 2016 responses to this question.

| Option | Total |
|---------------------|--------------|
| Yes | 46.2% |
| No | 35.2% |
| Unsure | 14.9% |
| Not answered | 3.7% |

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.

There were 755 narrative responses to this question:

- respondents to this question were keen to emphasise the importance of ensuring that there is an independent element to any appeals process, with a number suggesting that the appeals process should sit with an independent body, whether national or regional
- other views included the suggestion that appeals should be limited to specific cases, that the number of appeals that can be made in relation to a given decision, and that there should be no appeal for complaints that are deemed to be vexatious
- conversely, some respondents suggested that appeals should be heard in-house, either by the standards committee or full council, with a small number arguing that judicial review represents the most appropriate appeals route

38: Do you think there is a need for an external national body to hear appeals?

There were 1977 responses to this question.

| Option | Total |
|---|-------|
| Yes – an external appeals body would help to uphold impartiality | 69.1% |
| No – appeals cases should be heard by an internal panel | 25.4% |
| Not answered | 5.5% |

There were 481 narrative responses to this question:

- broadly in keeping with the quantitative responses, a large number of those who left a comment for this question were supportive of a national appeals body
- the reasons for this included the fact that it would bring greater impartiality to the process, as well as fairness and consistency of decision-making
- some respondents suggested that an external appeals process is important but only for significant sanctions such as suspension

- of those respondents who are opposed to the creation of a national body, a common rationale was that it would be overly expensive and bureaucratic
- some respondents suggested that appeals should be peer-led, or overseen by the principal authority

39: If you think there is a need for an external national appeals body, do you think it should:

There were 1548 responses to this question.

| Option | Total |
|---|--------------|
| Be limited to hearing elected member appeals | 16.6% |
| Be limited to hearing claimant appeals | 1.3% |
| Both of the above should be in scope | 56.1% |
| Not answered | 26% |

There were 480 narrative responses to this question:

- again, comments were largely consistent with the qualitative responses in advocating for both complainants and those subject to a complaint to be able to avail themselves of the appeals process, largely on the grounds of fairness
- of those who commented, a notable minority felt the appeals process should be limited only to members subject to a complaint or sanction, with no recourse to appeal for complainants

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?

There were 1978 responses to this question.

| Option | Total |
|--|-------|
| It would benefit individuals with protected characteristics | 32% |
| It would disadvantage individuals with protected characteristics | 3.2% |
| Neither | 59.4% |
| Not answered | 5.4% |

There were 399 narrative responses to this question:

- most of those who commented indicated that they felt the measures would either be beneficial to those with protected characteristics, or neutral.
- some respondents used this comment field to stress the importance of PSED considerations

1. An Independent Person is a person who is not a member, co-opted member, or officer of the authority, and who has not held such a position within the previous 5 years. They are appointed under Section 28 of the Localism Act 2011 to support the authority with code of conduct complaints and standards issues. Essentially, they are a neutral party brought in to help ensure fairness and impartiality in handling matters of standards and conduct within the council.



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