

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Conduct Advisory Panel
Date:	30 January 2025
Title:	Consultation on Local Government Member Standards
Report From:	Assistant Director – Legal Services and Monitoring Officer

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Purpose of this Report

1. The purpose of this report is to draw to the attention of the Conduct Advisory Panel the ongoing Government To receive.

Recommendation

2. It is recommended that the Conduct Advisory Panel note the current Government consultation entitled 'Strengthening the standards and conduct framework for local authorities in England'.

Executive Summary

3. In section 4 of the English Devolution White Paper¹ published on 16 December 2024, the Government announced that it would be consulting on changes to the standards regime. On 18 December 2024, the Ministry of Housing, Communities and Local Government issued a consultation entitled 'Strengthening the standards and conduct framework for local authorities in England'. The consultation will close at 11:59pm on 26 February 2025, and can be found at the following weblink: [Strengthening the standards and conduct framework for local authorities in England - GOV.UK](#).
4. In its consultation, the Government seeks views on proposed measures to strengthen the current standards and conduct regime for local authorities in England, including county councils, to ensure consistency of approach amongst councils investigating allegations of serious breaches of their Member codes of conduct.

¹ [English Devolution White Paper - GOV.UK](#)

5. The proposed reforms include introducing a mandatory minimum code of conduct for local authorities in England, introducing the power to suspend Members, establishing a role for a national body to deal with appeals and widening the circumstances in which Members would be disqualified for election and holding office as a Member. In addition, the consultation seeks views on how to empower individuals affected by councillor misconduct to come forward and what additional support would be appropriate to consider.
6. The role and function of the Conduct Advisory Panel encompasses standards of Member conduct and the Panel may wish to give consideration to the Government consultation.

Contextual information

7. The Localism Act 2011 (the 'Act') introduced changes to the regulation of standards of conduct for members of local authorities. Among other provisions, the Act introduced:
 - 7.1. A requirement for a relevant authority to adopt a (locally determined) code of conduct whilst ensuring that the contents of the code are consistent with the seven Nolan principles of standards in 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.
 - 7.2. Legal duties, and associated criminal offences, in respect of disclosable pecuniary interests ('DPIs'), such as to notify the relevant authority of these interests on taking office and, where relevant, to declare them at meetings and not take part in the discussion or vote on the matter.
 - 7.3. A requirement for a relevant authority to have in place arrangements for the investigation of allegations of breaches of its code of conduct, including consulting at least one Independent Person before a decision is made on an allegation that the Authority has decided to investigate.
8. There is no provision in current legislation for a sanction to suspend, or to withhold allowances from, a councillor found to have breached the code of conduct. In accordance with current legal powers, sanctions for Member code of conduct breaches may include barring Members from Cabinet, Committee, or representative roles, public criticism by the council or requiring the Member to undergo code of conduct training. 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.
9. In 2019, the Committee on Standards in Public Life ("the Committee") published its report entitled "Local Government Ethical Standards A Review

by the Committee on Standards in Public Life². The Committee recognised that local government impacts the lives of citizens every day, providing essential services to those it serves and making decisions that directly affect the quality of life of local people. Consequently, the Committee considered that high standards of conduct in local government were needed to demonstrate that those decisions were taken in the public interest and to maintain public confidence.

10. The Committee concluded that it was clear from the evidence they had received that the benefits of devolved arrangements should be retained, but that more robust safeguards were needed to strengthen a locally determined system. The Committee made a series of recommendations which, in its view, would enable councillors to be held to account effectively and enhance the fairness and transparency of the standards process. These recommendations included the introduction of a power of suspension and a right of appeal for suspended councillors, a model code of conduct and measures to encourage greater transparency on the assessment and determination of complaints to provide reassurance to the public.
11. In 2022, the former Government issued its response³ to the Committee's recommendations, agreeing with the Committee's conclusion that there had been benefits from local authorities being responsible for ethical standards, including the flexibility and discretion to resolve standards issues informally. The former Government recognised the role of Government in ensuring the robustness of the system but considered that some of the suggestions (albeit not the power of suspension) did not need a legislative response, instead being more appropriately taken forward by local authorities as best practice. The Government emphasised that it (and Parliament) had taken a different view on these matters when it legislated for the Localism Act 2011.

Consultation

12. In the current consultation, responses are invited from local authority elected members, officers, local authority sector representative organisations and, particularly, members of the public who have a point of view based on their interest in accessing local democracy in their area or standing as a candidate for local government.
13. The proposed measures on which views are being sought are summarised as follows:

² [Local Government Ethical Standards January 2019](#)

³ [Local government ethical standards: government response to the Committee on Standards in Public Life report - GOV.UK](#)

13.1. A mandatory minimum prescribed code of conduct, which would seek to ensure a higher minimum standard of consistency in setting expected behaviours, to include provisions in respect of discrimination, bullying and harassment, use of social media, public conduct when claiming to represent the council, and use of authority resources. The Government wishes to understand, amongst other things, whether councils consider there should be flexibility to add to the prescribed code to reflect individual authorities' circumstances (they would not be able to amend the mandatory provisions) and whether there should be a requirement for Members to cooperate with investigations into alleged code breaches.

13.2. A requirement for principal authorities to have standards committees to handle misconduct allegations (at the moment, authorities must only have in place 'arrangements' to investigate and make decisions in respect of allegations of misconduct). The rationale for this is that formal standards committees would support consistency and transparency in the handling of misconduct allegations, applying the same standards and procedures to all cases and providing a formal route to swiftly identify and address vexatious complainants, developing expertise in handling allegations of misconduct, leading to more informed decision-making. It is proposed that the membership of standards committees should include at least one Independent Person as well as at least one co-opted member from a town or parish council (where applicable). Amongst other things, views are sought on whether:

- the Independent Person and the co-opted members should be granted voting rights;
- standards committees should be chaired by the Independent Person; and
- all alleged code of conduct breaches which are referred for investigation should be heard by the standards committee or whether there should be discretion to allow decisions to be taken by full council.

13.3. A requirement for local authorities to publish annually a summary of code of conduct allegations and any investigation outcomes (whilst protecting complainants' identities). The Government anticipates a range of views on this, as publishing the outcome of an investigation that proves there is no case to answer could still be considered damaging to the reputation of the individuals concerned, or it could be considered as helpful in exposing instances of petty and vexatious complaints.

13.4. A requirement for local authorities to complete code of conduct investigations even if a Member stands down, with the findings being published. The government is proposing this measure to ensure that, whilst the member in question will no longer be in office and therefore subject to any council sanction, for the purposes of accountability and transparency there will still be a full record of any code of conduct breaches during their term of office.

13.5. A power for the local authority to suspend members for serious code of conduct breaches for up to a maximum of six months, with the option to withhold allowances and institute premises and facilities bans where appropriate. Views are sought on:

- the proposed power and whether the power should be granted to standards committees or an independent body;
- the maximum length of suspension and the likelihood of the maximum period of suspension being used;
- whether councils should be required to nominate an alternative point of contact for constituents during the absence of the suspended councillor;
- local authorities having the power to withhold allowances from suspended councillors and the power to ban suspended councillors from council premises and to withdraw the use of council facilities, and whether these should be tied to suspension or be standalone sanctions; and
- an additional power to impose interim suspensions (with allowances continuing) whilst serious or complex cases under investigation are resolved or when the misconduct leading to the allegation is subsequently referred to the police to investigate. Views are sought on the proposed power, the period of any interim suspension (proposed to be initially for up to a maximum of 3 months subject to review by the standards committee) as well as any safeguards around an extension of the initial period and what these might be, and whether there should be an accompanying power to impose a premises and facilities ban. It is proposed that the period of time spent on interim suspension may be deducted from the period of suspension a standards committee imposes as a sanction.

13.6. Disqualification for five years for those Members for whom the sanction of suspension is invoked on more than one occasion within a 5-year period. Currently a person is disqualified for election and holding office as a Member of a local authority if they have been convicted of any offence and have received a sentence of imprisonment (suspended or not) for a period of 3 months or more (without the option of a fine) in the 5-year period before the relevant election. Disqualification also covers sexual offences, even if they do not result in a custodial or suspended sentence. The Government's view is that the sanction of suspension should only be used in the most serious code of conduct breaches, because in effect a decision to suspend more than once in a 5-year period would be a decision to disqualify an elected member.

Views are sought on the proposed ground of disqualification and also whether there is 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.

13.7. A right of appeal in respect of any decision to suspend a Member. It is proposed that a Member should only be able to appeal any given decision to suspend them once, an appeal should be invoked within 5 working days of the notification of suspension and arrangements should be made to conduct the appeal hearing within 28 working days of an appeal request being received. It is proposed either to create a national body, or to vest the appeals function in an existing appropriate national body.

Views are sought on the right of appeal, the timeframe allowed for appeal, whether there is a need for an external national body to hear appeals or whether this should be done in-house within the council. Views are also sought on whether a right of appeal should be given to a complainant when a decision is taken not to investigate their complaint or when an allegation of misconduct is not upheld by the standards committee. Finally, if there is an external appeals body, views are sought on whether it should be limited to hearing elected member appeals, claimant appeals or whether it should hear both types of appeals.

13.8. A section addressing the need to empower individuals affected by councillor misconduct to come forward. The Government is seeking information regarding the number and nature of code of conduct complaints, including (generalised) information about the people making the complaints, measures to support people coming forward with complaints as well as seeking information from Members who have been the subject of complaints as to whether they feel they have received appropriate support to engage with any investigation undertaken.

13.9. Whether 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.

Finance

14. There are no financial implications associated with the Recommendation set out in this Report.

Equalities

15. There are no equality impacts deriving from the Recommendation set out in this Report.

Climate Change Impact Assessment

16. Hampshire County Council utilises two decision-making tools to assess the carbon emissions and resilience impacts of its projects and decisions. These tools provide a clear, robust, and transparent way of assessing how projects, policies and initiatives contribute towards the County Council's climate change targets of being carbon neutral and resilient to the impacts of a 2°C temperature rise by 2050. This process ensures that climate change

considerations are built into everything the Authority does.

17. The carbon mitigation tool and/or climate change adaptation tool were not applicable because the decision is administrative in nature.

Conclusion

18. The Government's consultation entitled 'Strengthening the standards and conduct framework for local authorities in England' seeks views on introducing measures to strengthen the local authority 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. Members are asked to note the consultation.

REQUIRED CORPORATE AND LEGAL INFORMATION:

Links to the Strategic Plan

This proposal does not link to the Strategic Plan but, nevertheless, requires a decision because:

It relates to the good governance of the County Council

Other Significant Links

Links to previous Member decisions:

<u>Title</u>	<u>Date</u>

Direct links to specific legislation or Government Directives

<u>Title</u>	<u>Date</u>

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

Document

Location

None

EQUALITIES IMPACT ASSESSMENT:

Equality Duty

The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited by or under the Act with regard to the protected characteristics as set out in section 4 of the Act (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation);
- Advance equality of opportunity between persons who share a relevant protected characteristic within section 149(7) of the Act (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic within section 149(7) of the Act (see above) and persons who do not share it.

Due regard in this context involves having due regard in particular to:

- The need to remove or minimise disadvantages suffered by persons sharing a relevant protected characteristic that are connected to that characteristic;
- Take steps to meet the needs of persons sharing a relevant protected characteristic that are different from the needs of persons who do not share it;
- Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

Equalities Impact Assessment:

No equality impacts have been identified in relation to the Recommendations in this Report.