

REPORT TO AUDIT AND GOVERNANCE COMMITTEE

Date of Meeting: 12 February 2025

Report of: Head of Legal and Democratic Services and Monitoring Officer

Title: Ministry of Housing, Communities and Local Government – Open consultation: Strengthening the standards and conduct framework for local authorities in England

Is this a Key Decision?

No

Is this an Executive or Council Function?

Council

1. What is the report about?

To consider the Ministry of Housing, Communities and Local Government's consultation: 'Strengthening the standards and conduct framework for local authorities in England' so that Members are aware that they have an opportunity to take part in the consultation process.

2. Recommendations:

That Members note the content of the attached consultation document and consider responding within the consultation period ending at 11.59pm on 26 February 2025.

3. Reasons for the recommendation:

To bring Members' attention to the consultation on standards and conduct so that they are aware of the opportunity to take part in the consultation process given that the issue of standards and conduct directly affects Members.

4. What are the resource implications including non-financial resources

There are no resource implications.

5. Section 151 Officer comments:

There are no financial implications for Council to consider.

6. What are the legal aspects?

The Local Government Act 2000 introduced a stringent standards regime. It required members to comply with an ethical standards framework. The framework was based on recommendations from the Third Report of Lord Nolan's Committee on Standards in Public Life and was implemented through Part III of the LGA 2000. It established a national framework for councillor conduct which featured:

- Standards for England: The purpose of this national body was to oversee a uniform Code of Conduct, investigate complaints, and was able to impose sanctions, including suspension of Members; and

- Local Standards Committees: Councils were required to establish committees in order to handle complaints and to enforce conduct locally.

Chapter 7 of the Localism Act 2011 introduced significant changes to this regime. It abolished the statutory requirement for a Standards Committee and the Model Code of Conduct and required local authorities to adopt their own code of conduct consistent with the 'Nolan' Principles of Standards in public life (i.e. selflessness, integrity, objectivity, accountability, openness, honesty and leadership) [The Seven Principles of Public Life - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/the-seven-principles-of-public-life). This required local authorities to establish 'arrangements' for handling complaints concerning member conduct, including the appointment of at least one Independent Person to be consulted at various stages of the complaints process. Exeter City Council has adopted the Local Government Association's model code of conduct which was last updated in 2021.

Although local authorities can investigate and make decisions on allegations of failure to comply with an authority's code of conduct (including the obligation to consult with its independent person), they have limited powers of sanction. For example, local authorities do not have the power to suspend Councillors. The consultation instigated by MHCLG is seeking views on the extent to which the Localism Act 2011 standards regime should be changed.

As Members will note from paragraph 8 of this report, the consultation instigated by MHCLG is seeking views on the extent to which a more stringent standards regime should be introduced. Members will note that there is no legal obligation to respond to government consultations.

7. Monitoring Officer's comments:

Members will note the central role of the standards regime in ensuring good governance and standards of elected members in office. The MHCLG are providing an opportunity for input and comments on its proposals to make changes to the standards regime.

8. Report details:

The consultation document is attached to this report. The document sets out in detail the government's proposals and its initial views on the requirements of a new standards and conduct framework for England. The consultation opened on 18 December 2024 and close at 11:59pm on 26 February 2025.

MHCLG have asked for wide ranging engagement with the consultation process and have invited responses from elected members, council officers, councils, members of the public and local authority sector representative organisations.

As Members will note, the Ministry of Housing, Communities and Local Government (MHCLG) is seeking views on introducing a mandatory minimum code of conduct for local authorities in England and to introduce measures to strengthen the standards and conduct regime in England with the aim of ensuring consistency in approach amongst councils investigating serious breaches of their member codes of conduct. In particular,

MHCLG is exploring the introduction of a power to suspend Members in cases of serious breaches of the code of conduct.

As the consultation document makes clear, sanctions are currently limited and include, for example, barring members from Cabinet, Committee or representative roles, a requirement to issue an apology or undergo code of conduct training. The MHCLG state that '[l]ocal authorities are also unable to withhold allowances from members who commit serious breaches of their code of conduct, and there is no explicit provision in legislation for councils to impose premises bans or facilities withdrawals where they consider it might be beneficial to do so' and identifies what it regards as '...a current lack of meaningful sanctions'. The consultation document goes on to state that '[t]he government considers that the current local authority standards and conduct regime is in certain key aspects ineffectual, inconsistently applied, and lacking in adequate powers to effectively sanction members found in serious breach of their codes of conduct'.

MHCLG are consulting on the following broad issues:

- 8.1 The introduction of a statutory minimum prescribed code of conduct;
- 8.2 An obligation on local authorities to constitute a formal standards committee;
- 8.3 An obligation to publish a summary of code of conduct allegations, investigations and decisions;
- 8.4 A requirement to complete live code of conduct investigations where a member stands down during the investigation;
- 8.5 Empowering individuals affected by councillor misconduct to come forward and raise their concerns;
- 8.6 The introduction of the power of suspension of members for a maximum of six months (including interim suspensions), together with the option to withhold allowances and impose premises and facilities bans where appropriate;
- 8.7 The sanction of disqualification for a period of five years for multiple breaches of the code of conduct and gross misconduct.
- 8.8 The introduction of a right of appeal for any members subject to suspension;
- 8.9 A proposal for a national appeals body against local authority decisions.

9. How does the decision contribute to the Council's Corporate Plan?

This report concerns the objective of 'Leading a well-run council' by addressing the objective of good governance.

10. What risks are there and how can they be reduced?

There are no immediate risks. There is an existing standards regime imposed by the Localism Act 2011. The MHCLG's consultation seeks to make significant changes to the standards regime.

11. Equality Act 2010 (The Act)

11.1 Under the Act's Public Sector Equalities Duty, decision makers are required to consider the need to:

- eliminate discrimination, harassment, victimisation and any other prohibited conduct;

- advance equality by encouraging participation, removing disadvantage, taking account of disabilities and meeting people's needs; and
- foster good relations between people by tackling prejudice and promoting understanding.

11.2 In order to comply with the general duty authorities must assess the impact on equality of decisions, policies and practices. These duties do not prevent the authority from reducing services where necessary, but they offer a way of developing proposals that consider the impacts on all members of the community.

11.3 In making decisions the authority must take into account the potential impact of that decision in relation to age, disability, race/ethnicity (includes Gypsies and Travellers), sex and gender, gender identity, religion and belief, sexual orientation, pregnant women and new and breastfeeding mothers, marriage and civil partnership status in coming to a decision.

11.4 In recommending this proposal no potential impact has been identified on people with protected characteristics as determined by the Act because any changes to the standards regime would be a matter for parliament. It is unlikely that changes to the standards regime would disadvantage individuals with protected characteristics compared to individuals without protected characteristics.

12. Carbon Footprint (Environmental) Implications:

12.1 There are no direct carbon/environmental impacts arising from the recommendations.

13. Are there any other options?

13.1 Members could choose not to respond to the consultation.

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Local Government (Access to Information) Act 1972 (as amended)

Background papers used in compiling this report:-

None

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