

Briefing Note

Standards & Conduct consultation – 26 Feb 2025

6 minute read

1.0 Background

1.1 Councillors will already know that their Code of Conduct sets out standards of behaviour for them when acting for or representing the parish council. This local code (local to the parish and Cornwall) was introduced in 2011 to replace the national standard. Before 2011, the national standard was managed by a national body, would hear complaints and appeals for serious breaches and had the power to suspend councillors for up to 6 months or disqualify them from being a councillor for up to 2 years.

1.2 After the introduction of the 2011 Localism Act, many national functions and responsibilities were passed down to local level, including the obligation for county councils to create their own system of managing unacceptable councillor behaviour, and for agreeing sanctions. The changes that were made and which apply at the moment are:

- There is no national body to receive and arbitrate on serious complaints made against councillors.
- Cornwall Council have their own Code of Conduct which is also binding on parish councils
- The system is managed by a Cornwall Council officer (an 'independent person' not a councillor)
- There is no power to remove, suspend or disqualify a councillor from elected office.

1.3 National government is consulting on changes to the present system that would see:

- National standards to set out the role of the independent person
- Reintroduce suspension and interim suspension for the most serious cases
- Disqualify those who are repeatedly suspended for up to 5 years
- Create a national body to manage appeals

1.4 The closing date for feedback on the proposals is 26 February 2025. Councillors are encouraged to consider the proposals and feedback either individually or as a parish council. Questions relate to the way that principal councils (like Cornwall) manage breaches of the Code of Conduct. **They do not relate to the parish council.** This briefing note links to the national consultation and sets out the key points you might consider.

Councillors are reminded that the Civility & Respect Pledge they agreed in 2024 commits the parish council to supporting the continued lobbying for changes to legislation to support the pledge, including sanctions for elected members where appropriate.

2.0 The survey

2.1 You can view and take part in the consultation by following this link:

<https://tinyurl.com/5n9xbu3u>

2.2 This Briefing Note is restricted to the key topics that CALC has identified, and there are other questions in the survey that you might wish to consider answering. **However, the online survey is structured so that you don't have to answer every question – that is, you can skip forward at any time and answer just the questions you wish**

2.3 The complete document is 27 pages long and consists of 39 questions. However, CALC advise that there are 9 key topics you should consider: the Briefing Note will take you through to them with prompts for you to consider. There are notes at the start of each question to explain the background and put the item in context. Please refer to the pdf document of the survey before completing online.

5a) Mandatory Minimum Code of Conduct (page 9)

Question 2

A minimum code of conduct that would aim to get a higher minimum standard of behaviour from elected members. This means a strict code that covers discrimination, bullying, social media use, public conduct (and others items). The public would see a consistent standard across the country and know what they can expect.

Question 3

Should there be scope for individual councils (Cornwall Council) to **add items** to it that reflect its own individual circumstances **or just one code** for the whole country?

Question 4

Should it be **compulsory for members to cooperate** with any investigations into code breaches?

5b) Standards Committees (page 11)

Consider: No requirement at the moment for councils to have a formal standard committee to handle complaints. Proposal is that all principal authorities (like Cornwall Council) should have one. Either that or full council will decide. **Is it only elected councillors who should handle complaints or should there be an 'independent person'** (eg a council officer). There may be issues about fairness, objectivity, bias and transparency to consider when you answer.

Question 5

Yes - Cornwall Council does maintain a standards committee

Question 6

Should all principal councils (like Cornwall Council) be required to form a standards committee? We already have one – but do we need to keep one if it's optional?

Question 7

At the moment, all complaints go direct to the Monitoring Officer (this is detailed in the parish council's Complaints Policy) before being passed to the Standards Committee. Should this continue? Or should full council take the place of the Standards Committee?

Question 8

When it comes to making a decision about an allegation of a breach, should the independent person (the Monitoring Officer) be allowed to vote? Or only elected members?

Question 9

Should the Standards Committee be Chaired by the Independent Person?

5c) Investigations (page 12)

Consider: In order to make the process transparent (so open to question and scrutiny in the way it has worked) should the local council be required to publish a summary of the

allegations, investigations and decisions? (subject to data protection for victims and perpetrators). Even if the complaint is not upheld, should the results be published?

Question 11

Should only 'guilty' verdicts be published?

5d) If a member stands down during the investigation? (page 13)

Consider: this would not be an admission of guilt, but should the council continue with the investigation? There would be no sanction for them (if found guilty), but there would be a record of any breaches made during their term in office.

Question 11

Continue with the investigation? Come to a decision? Publish the result?

5e) Empowering individuals (page 14)

Consider: Often difficult for people affected by bullying and harassment to come forward and complain. Please answer these questions 16 & 17 from your personal experience if affected. Questions 13-15 do not apply here.

Question 16

(If affected) what support did you get?

Question 17

(If affected) what would help victims come forward?

6 Power of suspension (page 16)

Consider: a new code could give councils the power to suspend members for a maximum of 6 months (with options to withhold allowances and bar them from premises and use of council facilities). This would be a new power not seen since before 2011. Not being able to suspend members may send out a message that sanctions (having to make an apology or attend training courses – which are not enforceable at the moment) are not effective, and that repeat offenders can get away with it.

Question 18

Suspend or not?

Question 19

Who decides? The Standards Committee? Or an independent body?

Question 20

What happens to the electors when their member is suspended? How does their business continue when they have complaints or concerns?

6a) Length of suspension (page 17)

Consider: Government suggests that the maximum time for suspension should be 6 months (this is so that a councillor would not automatically lose their seat for non-attendance - this is the same as with parish councils). This would be for only the most serious breaches and there would be no minimum.

Question 21

What should be the maximum length for suspension?

Question 22

Suspension is a serious consequence for poor behaviour. How often would you expect to see this applied?

6b) Withholding allowances and premises and facilities bans (page 18)

Consider: If a member is suspended, should they also be prevented from having access to council facilities and other support they get to do their job as councillor?

Question 23

Should the council have the right to withhold allowances from suspended councillors? (In Cornwall, every elected councillor has a minimum annual allowance of £18,367.84)

Question 24

Should this include barring them from council premises and facilities?

Question 25

Even if a councillor is not suspended, do you think that withholding allowances etc should be one of the sanctions available if they are found guilty of a breach of the code?

6c) Interim suspension (page 19)

If an investigation is long and complex (and may involve other agencies, such as the police), then government thinks that an interim suspension (up to 3 months) might be appropriate.

Question 26

Interim suspension: yes or no?

Question 27

If an interim suspension, should they still receive allowances and be able to use council facilities?

Question 28

Is 3 months maximum right? Or should the council be able to decide for itself?

Question 29

Should a 3 months suspension be subject to a review as it ends?

Question 30

If the 3 month period is extended, should there be safeguards to protect the accused member? (or do you trust the Standards Committee to know what is best in each case)

6d) Disqualification (page 21)

Consider: What if a councillor breaches the code, gets suspended - and breaches again. Is it sensible to consider a period of disqualification? (so that if suspended once and breaches again, they would be prevented from standing as a member for, say, 5 years)

Question 31

Disqualified if suspended more than once in a fixed period?

Question 32

What about cases of gross misconduct? (theft or assault – not necessarily resulting in a custodial sentence). Would you agree to immediate disqualification (not suspension) provided there had been an investigation?

6e) Appeals (page 22)

Consider: Should there be a right to appeal against a suspension? How many times can they appeal and should there be a time limit?

Question 33

Is there a right to appeal or is the Standards Committee decision final?

Question 34

Time limit on the appeal?

Question 35

Even if the complaint is not investigated, should an appeal be allowed? (that might be to challenge the way the investigation was made)

Question 36

Would this apply also to allegations of misconduct?

6f) A national appeals body

Consider: if appeals are to be allowed, who should manage this? the council itself or some external independent body? The former might be quicker, the latter slower. But an external body might reinforce transparency and impartiality.

Question 38

External body – yes or no?

Question 39

If you say YES to Question 38, what should the scope of an external body be?

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