



Submission from Association of Democratic Services Officers (ADSO) to the Review of Local Government Ethical Standards: Stakeholder Consultation

ADSO is a professional organisation established in 2009 to support those working in the democratic and governance roles within local authorities in England. We provide a range of benefits to our members, including professional qualifications and training. We operate regionally and have a national board elected annually. With over 950 members we have become an established voice for the sector. We encourage shared learning and building on best practice.

We welcome the opportunity to submit our comments, as set out below, and would be more than happy to discuss further should you require any further information or clarification.

a) Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.

Whilst we were surprised by the dilution to the standards code brought in by the Localism Act 2011, they are generally working well in the majority of local authorities. We believe that the most councillors adhere to high standards of conduct. As in other areas of society, it is the few that cause the problems.

b) What, if any, are the most significant gaps in the current ethical standards regime for local government?

There are two main areas that we think could be improved. Firstly, local Standards Committees need stronger sanctions available to them. Under the previous regime, disqualification and suspension were effective deterrents. Since their removal, local Committees can only impose sanctions such as censure, requests to attend training and/or requests for removal from holding certain posts. These are not effective, particularly in the most severe cases.

Secondly, we would like further guidance to local authorities on the definition of disclosable pecuniary interests (DPI) and when councillors should exclude themselves from participation in a discussion and voting. In our experience, interpretation of what a DPI is and how it is applied is mixed. The DCLG Guidance entitled "Openness and transparency on personal interests" is helpful but more is required. That guidance states that if you have a DPI relating to any business that is or will be discussed at the meeting, you must not participate and vote. There is a lack of clarity about how widely this should be drawn. For example, what should happen if the matter under discussion is felt to be affected by an interest that has previously been registered or declared but not specifically related to it? A case in point could be where a member has registered an interest in land and a planning application is subsequently submitted in relation to an adjacent site. Clearly, the

member would have a DPI in the determination of that application. Would that still be the case however, if the application site crossed two local authority boundaries and there was a discussion as to whether it should be determined by both authorities or just the one with the largest portion of the site within its boundary? Does the DPI relating to the interest in the adjacent land automatically span across to who determines the application?

There is a lack of case law or definitive legal opinion to guide this discussion.

We accept that councils should be allowed to agree their own codes of conduct to suit their particular circumstances, but we would like to see more clarity through national guidance and more consistency in interpretation. For example, in some Councils, members with a DPI can speak before leaving the meeting. In others, they can't. In some, siblings and close friends are included in a DPI but not in others.

Code of conduct

- c) Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?**

We believe that the majority of codes are clear and easy to understand. Many Councils now adopt good practice in pre-election induction for candidates including the standards and conduct expected of them should they be elected.

- d) A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.**

See our comments in (a) and (b) above.

Investigations and decisions on allegations

- e) Are allegations of councillor misconduct investigated and decided fairly and with due process?**

What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?

See our comments in (b) above relating to the need for greater sanctions.

Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?

Consideration could be given to reinstating the Independent Member(s) as formal members of Standards Committees and for local authorities to have the option of appointing them as chairs.

Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

Monitoring Officers already have the option of using independent investigators in such circumstances.

Sanctions

f) Are existing sanctions for councillor misconduct sufficient?

What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?

See our comments in (b) above.

Should local authorities be given the ability to use additional sanctions? If so, what should these be?

Yes. See our comments in (b) above. The return of the sanctions of suspension and disqualification would be welcome.

Declaring interests and conflicts of interest

g) Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.

A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?

See our comments in (b) above relating to DPIs.

What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.

Generally, we find that Monitoring Officers manage these situations well and that members will seek advice. The key is to encourage them to seek that advice as soon as possible before the meeting so proper consideration can be given to their situation. Guidance to members in relation to the rules in registering and declaring interests is clear (subject to our comments on DPIs above) and they generally adhere to them. In fact, the tendency is to be over cautious and for members to 'play safe'.

Whistleblowing

h) What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?

Our experience is that Councils have clear and satisfactory whistleblowing policies in place. However, publicity and awareness is patchy.

Improving standards

i) What steps could *local authorities* take to improve local government ethical standards?

By being as open and transparent as possible in their decision making.

j) What steps could *central government* take to improve local government ethical standards?

Give local government the options of stronger sanctions, strengthen the role of Independent Members and to follow the same standards.



Intimidation of local councillors

k) What is the nature, scale, and extent of intimidation towards local councillors?

It is difficult to comment on the level of scale of intimidation. Anecdotally, it does seem to have increased in recent years. We have witnessed a rise in protests and in some instances, acts of intimidation towards local councillors as well as staff. Social media, whilst positive, has made this easier. There is a balance to be struck. No one is suggesting that people should be prevented from raising their objections, which can sometimes be passionate and vociferous; nor should local authorities be anything other than open to their citizens. But there is a line. When it comes to threats to the individual and their families, or where physical violence is used or threatened, that is totally unacceptable. It is important that everyone should be free from intimidation. This should be backed up by the law.

It is therefore important that local authorities have procedures in place to support their elected representatives. This should be complimented by training. A number of local authorities already undertake risk assessments for councillor surgeries and meetings. This involves assessing venues, times and ensuring procedures are in place to ensure that in the case of councillor surgeries, they are safe. Similar procedures have been followed for meetings with high public interest. Venues are assessed, entrance determined by capacity for high demand meetings, by controlling numbers and to ensure a steady flow of people into venues. Evacuation procedures are also tested prior to the meeting and understood by those present. This highlights the potential benefit of having webcam although we appreciate the cost which may be prohibitive. Most authorities already work closely with the local Police to help address problems before they occur. We suggest this becomes common practice and would hope the situation is monitored nationally.

John Austin
Chair of Association of Democratic
Services Officers
John.austin@adso.gov.uk
Twitter: [@ADSO_UK](https://twitter.com/ADSO_UK)
www.adso.co.uk
Tel: 07793 013616

Dave Burn
Vice Chair of Association of
Democratic Services Officers
dave.burn@adso.co.uk
Tel: 07732 331000