

The Arc
High Street
Clowne
S43 4JY

To: Chair & Members of the Standards Committee

Friday, 30 January 2026

Contact: Angelika Kaufhold
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Dear Councillor

STANDARDS COMMITTEE

You are hereby summoned to attend a meeting of the Standards Committee of the Bolsover District Council to be held in the Council Chamber, The Arc, Clowne on Monday, 9th February, 2026 at 14:00 hours.

Register of Members' Interests - Members are reminded that a Member must within 28 days of becoming aware of any changes to their Disclosable Pecuniary Interests provide written notification to the Authority's Monitoring Officer.

You will find the contents of the agenda itemised on page 3 onwards.

Yours faithfully



Solicitor to the Council & Monitoring Officer

Equalities Statement

Bolsover District Council is committed to equalities as an employer and when delivering the services it provides to all sections of the community.

The Council believes that no person should be treated unfairly and is committed to eliminating all forms of discrimination, advancing equality and fostering good relations between all groups in society.

Access for All statement

You can request this document or information in another format such as large print or **language** or contact us by:

- **Phone:** [01246 242424](tel:01246242424)
- **Email:** enquiries@bolsover.gov.uk
- **BSL Video Call:** A three-way video call with us and a BSL interpreter. It is free to call Bolsover District Council with Sign Solutions, you just need WiFi or mobile data to make the video call, or call into one of our Contact Centres.
- Call with [Relay UK](#) - a free phone service provided by BT for anyone who has difficulty hearing or speaking. It's a way to have a real-time conversation with us by text.
- **Visiting** one of our [offices](#) at Clowne, Bolsover, Shirebrook and South Normanton

**STANDARDS COMMITTEE
AGENDA**

**Monday, 9th February, 2026 at 14:00 hours taking place in the Council Chamber, The Arc,
Clowne**

Item No.		Page No.(s)
1.	Apologies For Absence	
2.	Urgent Items of Business	
	To note any urgent items of business which the Chairman has consented to being considered under the provisions of Section 100(B) 4(b) of the Local Government Act 1972.	
3.	Declarations of Interest	
	Members should declare the existence and nature of any Disclosable Pecuniary Interest and Non Statutory Interest as defined by the Members' Code of Conduct in respect of:	
	a) any business on the agenda b) any urgent additional items to be considered c) any matters arising out of those items and if appropriate, withdraw from the meeting at the relevant time.	
4.	Minutes	4 - 7
	To consider the minutes of the last meeting held on 10 th November 2025.	
5.	Gifts and Hospitality Annual Report 2025	8 - 15
6.	Whistleblowing Annual Report	16 - 30
7.	Change to the Council's Constitution	31 - 34
8.	Government Response to the Consultation on Changes to the Standards Framework	35 - 87
9.	Member Complaints - Update	88 - 95
10.	RIPA Annual Report	96 - 123
11.	Work Programme 2025/2026	124
	To consider the Standards Committee Work Programme for the remainder of the 2025/26 municipal year.	

Agenda Item 4

STANDARDS COMMITTEE

Minutes of a meeting of the Standards Committee of Bolsover District Council held in the Council Chamber, The Arc, Clowne on Monday, 10 November 2025 at 14:00 hours.

PRESENT:-

Members:-

R. Jaffray in the Chair

Councillors Vicky Wapplington (Vice-Chair), Louise Fox, Donna Hales, Duncan Haywood and Clive Moesby.

Officers:- Jim Fieldsend (Director of Governance and Legal Services & Monitoring Officer), Angelika Kaufhold (Governance and Civic Manager) and Matthew Kerry (Governance and Civic Officer).

STA41-25/26 APOLOGIES FOR ABSENCE

An apology for absence was received from Councillor Gilbody.

STA42-25/26 URGENT ITEMS OF BUSINESS

There was no urgent business to be considered at the meeting.

STA43-25/26 DECLARATIONS OF INTEREST

There were no declarations made at the meeting.

STA44-25/26 MINUTES

Moved by Councillor Fox and seconded by Councillor Haywood

RESOLVED that the minutes of a meeting of the Standards Committee held on 12th May 2025 be approved as a true and correct record.

STA45-25/26 ANNUAL LETTER FROM THE LOCAL GOVERNMENT & SOCIAL CARE OMBUDSMAN 2024/25 AND ANNUAL HOUSING OMBUDSMAN REPORT INCLUDING SELF ASSESSMENT 2024/25

Consideration was given to a report presented by the Monitoring Officer which provided information relating to the Annual Letter received from the Local Government & Social Care Ombudsman (LG&SCO) 2024/25 and the Housing Ombudsman Annual Report and Self-Assessment submission.

During 2024/25 the LG&SCO had received nine enquiries and complaints and of these seven were closed after initial enquiries and two were not for the Ombudsman to investigate.

Members commented that it was positive that there had been no LG&SCO formal

STANDARDS COMMITTEE

complaints investigations during 2024/25.

Moved by Councillor Moesby and seconded by Councillor Hales

RESOLVED that the Annual Letter from the LG&SCO and the Annual

Submission Housing Ombudsman Report and Self-Assessment 2024/25 be noted.

STA46-25/26 COMPLIMENTS, COMMENTS AND COMPLAINTS 25/26 - 1ST APRIL 2025 TO 30TH JUNE 2025

Consideration was given to a report presented by the Monitoring Officer which provided information and detailed the performance against the Council's performance indicators relating:-

- the customer service standards for the period 1st April 2025 to 30th June 2025;
- the management of complaints and customer requests;
- the number of compliments, comments and complaints; and
- to make Members aware of performance and improvements in relation to its Customer Service Standards and the effective management of complaints.

Moved by Councillor Hales and seconded by Councillor Haywood

RESOLVED that the overall performance on Customer Service Standards and

Compliments, Comments and Complaints be noted.

STA47-25/26 WHISTLEBLOWING POLICY

Consideration was given to a report presented by the Monitoring Officer relating to the Council's Whistleblowing Policy. The Council was committed to fostering a climate of openness and transparency by adopting a Whistleblowing Policy to support individuals in the workplace so they would not feel victimised, harassed or suffer any reprisals if they raised concerns about wrongdoing within the organisation. The Council was committed to updating policies on a regular basis to ensure they were fit for purpose with the last review of the Whistleblowing Policy having taken place in January 2025.

In accordance with the Policy, the Monitoring Officer had overall responsibility for the maintenance and operation of the Policy, maintain a record of concerns raised and outcomes as well as reporting to Council on instances of Whistleblowing.

The Monitoring Officer informed the Committee that a motion to Council to review the Whistleblowing Policy had been considered on 8th October 2025. Council was informed that the Policy was reviewed every year by the Committee and confirmed it was last considered and approved as fit for purpose in January 2025. The Monitoring Officer had sought feedback but not received anything from the Councillor who had submitted the Motion, as to any potential areas where changes in the policy may be required.

There was a requirement for the Monitoring Officer to report instances of Whistleblowing to Council and this would be reported to the next meeting of the Committee in February 2026.

STANDARDS COMMITTEE

Once the Whistleblowing Policy was approved the Communications Team would be asked to post details of the policy on the Council's intranet (Eric) and remind staff of the policy and procedure.

Moved by Councillor Haywood and seconded by Councillor Hales
RESOLVED that the Standards Committee agreed that the Whistleblowing Policy was fit for purpose.

STA48-25/26 COMPLAINTS UPDATE

Consideration was given to a report presented by the Monitoring Officer relating to the Council's members code of conduct process and an update on the number of complaints received.

Members attention was drawn to the Appendix 1 which included the sixteen complaints received as follows:

- Five complaints were under investigation or due to be investigated.
- Three had resulted in councillors accepting they had breached the code and they had apologised to the complainant.
- Two councillors had resigned following receipt of the complaints and no further action was taken.
- The remainder of the complaints were not considered to be matters that fell under the jurisdiction of the member code of conduct complaints regime.
- Since publication of the agenda one further member complaint had been received.

The Monitoring Officer confirmed that the number of complaints received during the 2025 calendar year was higher than previous years with a number relating to the same parish/town councils.

Two additional new Independent Persons had been appointed at Council on 8th October 2025 which had increased the number to three in total. Their role included being consulted and providing guidance to the Monitoring Officer on member code of conduct complaints.

There was no specific timescale for investigating code of conduct complaints but the preference was to complete these as quickly as possible. This was dependent on the nature and seriousness of the complaint but also staffing capacity.

Code of Conduct training was mandatory for councillors and the Monitoring Officer had previously offered to provide this to Parish and Town Councils. The Derbyshire Association for Local Government also provided similar training.

The update was noted.

STA49-25/26 WORK PROGRAMME 2025/2026

Consideration was given to Work Programme for the Standards Committee for 2025/26 as presented by the Monitoring Officer.

STANDARDS COMMITTEE

Noted that the next meeting was scheduled to take place on 9 February 2026.

The meeting concluded at 14:25 hours.

BOLSOVER DISTRICT COUNCIL

Meeting of the Standards Committee on 9th February 2026

Gifts and Hospitality Annual Report 2025

Report of the Director of Governance and Legal Services & Monitoring Officer

Classification	This report is Public
Contact Officer	Jim Fieldsend, Director of Governance and Legal Services & Monitoring Officer

PURPOSE/SUMMARY OF REPORT

To advise the Committee of the details of all entries in the Council's Gifts and Hospitality Register in respect of offers of gifts and hospitality made to Members and officers of the District Council during the period January 2025 to December 2025.

REPORT DETAILS

1. Background

1.1 The Council's Constitution, Part 5 specifies detailed arrangements for the registering of gifts and hospitality made to Members and officers.

2. Details of Proposal or Information

2.1 A copy of the provisions of the Constitution in respect of gifts and hospitality is attached as Appendix 1 to this report. Details of the entries in the Council's Gifts and Hospitality Register for the period January 2025 to December 2025 is attached as Appendix 2 to this report.

3. Reasons for Recommendation

3.1 It is important that there is a clear process for the recording and reporting of gifts and offers of hospitality offered to Members and officers of the Council.

3.2 The annual reporting of offers of gifts and hospitality made to Members and officers ensures that the Council's performance on this matter is monitored on a regular basis and that any changes in procedure can be introduced if necessary.

4 Alternative Options and Reasons for Rejection

4.1 There are no alternative options. This report is for notification purpose only

RECOMMENDATION(S)

1. That the Committee notes the content of this Annual Report for the period January 2025 to December 2025 in respect of offers of gifts and hospitality made to Members and officers.

IMPLICATIONS:

<u>Finance and Risk</u>	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Details:	On behalf of the Section 151 Officer	
<u>Legal (including Data Protection)</u>	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Details:	The Council has set a threshold of £25 for the declaration of gifts and hospitality as set out in its Constitution.	
	On behalf of the Solicitor to the Council	
<u>Staffing</u>	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Details:	On behalf of the Head of Paid Service	
<u>Equality and Diversity, and Consultation</u>	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Details:		
<u>Environment</u>	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Details:	Please identify (if applicable) how this proposal/report will help the Authority meet its carbon neutral target or enhance the environment	

DECISION INFORMATION:

<p><input checked="" type="checkbox"/> Please indicate which threshold applies:</p> <p>Is the decision a Key Decision? A Key Decision is an Executive decision which has a significant impact on two or more wards in the District or which results in income or expenditure to the Council above the following thresholds:</p> <p>Revenue (a) Results in the Council making Revenue Savings of £75,000 or more or (b) Results in the Council incurring Revenue Expenditure of £75,000 or more.</p> <p>Capital (a) Results in the Council making Capital Income of £150,000 or more or (b) Results in the Council incurring Capital Expenditure of £150,000 or more.</p> <p>District Wards Significantly Affected: (to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the District) Please state below which wards are affected or tick All if all wards are affected:</p>	<p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>(a) <input type="checkbox"/> (b) <input checked="" type="checkbox"/></p> <p>(a) <input type="checkbox"/> (b) <input checked="" type="checkbox"/></p> <p>All <input type="checkbox"/></p>
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<p>If Yes, is the call-in period to be waived in respect of the decision(s) proposed within this report? (decisions may only be classified as exempt from call-in with the agreement of the Monitoring Officer)</p> <p>Consultation carried out: (this is any consultation carried out prior to the report being presented for approval)</p> <p>Leader <input type="checkbox"/> Deputy Leader <input type="checkbox"/> Executive <input type="checkbox"/> SLT <input type="checkbox"/> Relevant Service Manager <input type="checkbox"/> Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input type="checkbox"/></p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>
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<p>Links to Council Ambition: Customers, Economy, Environment, Housing</p>	
<p>Customers</p>	

DOCUMENT INFORMATION:

Appendix No	Title
1	Extract from the Council's Constitution: Protocol on gifts and hospitality
2	Schedule of Gifts and Hospitality January 2025 to December 2025

Background Papers
<p><i>(These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Executive, you must provide copies of the background papers).</i></p>

DECEMBER 2024

APPENDIX 1

GIFTS AND HOSPITALITY GUIDANCE

- (1) In many areas of the commercial world it is common practice to offer and accept gifts, hospitality and other benefits. This practice is frequently used to influence a decision when one company is seeking business with another and it is perfectly legal to do so – but it can be quite the contrary in public service.
- (2) The acceptance of gifts, hospitality or other benefits, even on a modest scale, may arouse suspicion of impropriety and extreme caution and discretion should be exercised in accepting either. In principle you should refuse any personal gift offered to you or your family by any person or company who has or seeks dealings of any kind with the Council.
- (3) The only reasonable exceptions to the guidance given in (2) above are:-
 - (a) Small gifts of a purely token value given by way of trade advertisements (e.g., calendars, diaries, articles for general use in the office).
 - (b) Small articles, again purely of a token value given at the conclusion of courtesy visits (e.g. to a factory).
 - (c) A small gift offered without warning and where refusal would give particular offence.
- (4) Should you receive an unexpected gift, which falls outside the categories (see 3 above) you should consult your Director or Head of Service, as appropriate, who will decide the course of action. This may include:-
 - (a) returning the gift, ensuring that the donor is told in a polite way why this has been necessary;
 - (b) passing the gift on to some charitable cause if it is appropriate to do so;
 - (c) agree that the gift may be kept by the recipient.
- (5) Details of all gifts covered by the above categories must be recorded in a book kept for this purpose by the Monitoring Officer.
- (6) Hospitality is sometimes offered to employees and it is not always possible or desirable to reject offers of a moderate nature. Examples of acceptable hospitality include a working lunch of a modest standard, provided to allow business discussion to continue.

- (7) Some offers of hospitality are clearly unacceptable and these would include offers of holiday accommodation, individual offer of theatre tickets for yourself or your family and individual invitation to dinner.
- (8) You should be particularly cautious when any form of hospitality is offered by an individual or organisation seeking to do business with, or a decision from, the Council as acceptance might affect your relations with the party offering it and how this might be viewed. If in any doubt at all you should consult with your Director or Head of Service as appropriate before acceptance. Directors/Head of Service must consult with Monitoring Officer or Chief Financial Officer.
- (9) Acceptance of offers of hospitality must be recorded in the book kept for the purpose.
- (10) These guidelines are intended as a general overview on the acceptance of gifts and hospitality but cannot cover every eventuality. If you are in any doubt you should consult your Director or Head of Service, as appropriate.
- (11) **The procedure for registering offers of gifts and hospitality to officers will be as follows:**
 - When a gift/hospitality arises it is the responsibility of the recipient to use the Gifts and Hospitality Declaration form which can be located on the intranet.
 - There will be two versions of the Declaration form –
 - **Gifts and Hospitality Corporate Declaration form** – to be completed by all Bolsover District Council Employees
 - **Gifts and Hospitality Members Declaration form** – to be completed by any District Councillor.
 - Note for officers only: Complete the relevant form and get the Authorising Officer to sign the document (if the gift or hospitality is being accepted).

REMEMBER

- The entry needs to be made within a reasonable period of time from the offer of the gift or hospitality. **Members have 28 days to do this.**
- Members are required to declare any gift or hospitality that is above the value of £25. However, there is nothing to stop you

from declaring any gift or hospitality that is below the stated value if you prefer to have this on record.

- The entry needs to be made within a reasonable period of time from the offer of the gift or hospitality.
- Give an approximate value of the offer. You can say “*de minimis*” or “*less than £10*” if the gift is small.
- Name the donor, including where the Authority provides hospitality.
- It must be clear from the entry whether the offer is accepted or refused.
- The name and extension number of the individual who received the offer must be provided on the form.
- A reason for acceptance must be given and the Line Manager’s authorisation (signature) obtained.
- Line Managers should not authorise their own acceptance of gifts and hospitality. A Director or Head of Service should be asked to authorise.
- Scan the signed and completed document and email the form to the Monitoring Officer.
- The register will be checked annually by the Monitoring Officer, on behalf of the Standards Committee, to ensure that the system is being used and to monitor the frequency of any gifts and hospitalities during the calendar year.

Appendix 2

Gifts & Hospitalities Inspection - January 2025 to December 2025				
Department	Total amount of declared gifts	Description of gifts/hospitalities	Electronic Declarations - Total	Paper Declarations - total
Members				
GROWTH DIRECTORATE				
CEO				
Joint Strategic Directors				
CEPT				
Economic Growth				
Planning & Env. Health				
Legal & Governance				
OPERATIONS				
Finance				
Revenues				
Street Scene				
Housing	16	Food hamper, chocolates, prosecco, note pad, pen, mug, pickle and crackers and coffee; Bottle of wine ; Bottle of Jack Daniels £20; 2 x chocolate bars (£2) ;Pink baby blanket and stuffed toy (£10);AMAZON VOUCHER (£10); Leaving flowers £8 ;3 boxes of chocolates; 2 bottles of wine £10		
Community Safety	1	Thank you card, sweets and chocolate (approx £20 value);		
Property & Estates				
TRANSFORMATION				
ICT				
Health & Wellbeing				
Leisure				
Human Resources				
Shirebrook Contact Centre	1	Chocolate bars;		
Bolsover Contact Centre				
Clowne Contact Centre	9	Biscuits (rec'd in Dec 24 not declared until 22.01.25) ; box of celebrations (rec'd in Dec 24 not declared until 22.01.25) ; Quality Street Chocolates ; Chocolate Bar (approx £1.69); Bag of chocolate biscuits ; FEREROR ROCHIER CHOCOLATES(£9); £5 box of chocolates ;Box of chocolates		
South Normanton Contact Centre	1	Tub of Celebration chocolates;		
Customer Service & Improvement	1	Quality Street chocolates £5;		

BOLSOVER DISTRICT COUNCIL

Meeting of the Standards Committee on 9th February 2026

Whistleblowing Policy- Annual Report

Report of the Director of Governance and Legal Services & Monitoring Officer

Classification	This report is Public
Contact Officer	Jim Fieldsend, Director of Governance and Legal Services & Monitoring Officer

PURPOSE/SUMMARY OF REPORT

To provide an annual update to Members on use of the Council's Whistleblowing Policy.

REPORT DETAILS

1. Background

- 1.1 Whistleblowing is a report from an employee, member, or other person about suspected wrongdoing within the organisation. The Public Interest Disclosure Act 1998 requires employers to refrain from dismissing workers and employees or subjecting them to any other detriment because they have made a protected disclosure.
- 1.2 Whistleblowing policies should foster a climate of openness and transparency in which individuals in the workplace do not feel that they will be victimised, harassed, or suffer any reprisals if they raise concerns about wrongdoing within the organisation. The Government expects all public bodies to have adequate whistleblowing procedures in place.

2. Details of Proposal or Information

- 2.1 The Whistleblowing Policy shown in Appendix 1 was last reviewed by Standards Committee on 10th November 2025.
- 2.2 In accordance with the Whistleblowing Policy, the Monitoring Officer has overall responsibility for the maintenance and operation of the Policy and will maintain a record of concerns raised and the outcomes. The Monitoring Officer is also required to report as necessary to the Council on instances of whistleblowing.

2.3 There have been two instances of whistleblowing in 2025 which are shown on the Whistleblowing Register at Appendix 2. Due to the need to maintain confidentiality these whistleblowing complaints have been anonymised and detailed so as not to reveal the identity of the complainant and member of staff complained about.

2.4 These instances will be reported to Council in accordance with the Whistleblowing Policy.

3. Reasons for Recommendation

3.1 To report the 2025 instances of whistleblowing to Members.

4 Alternative Options and Reasons for Rejection

4.1 There are no alternative options.

RECOMMENDATION(S)

1. That the Committee note the instances of whistleblowing that have been made during 2025 which will be reported to Council.

IMPLICATIONS:

<u>Finance and Risk</u>	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Details:		
	On behalf of the Section 151 Officer	
<u>Legal (including Data Protection)</u>		
	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Details:		
The legal implications in relation to whistleblowing are contained within the policy and no further implications arise from this report.		
	On behalf of the Solicitor to the Council	
<u>Staffing</u>	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Details:		
	On behalf of the Head of Paid Service	
<u>Equality and Diversity, and Consultation</u>	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Details:		
<u>Environment</u>	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Please identify (if applicable) how this proposal/report will help the Authority meet its carbon neutral target or enhance the environment		
Details:		

DECISION INFORMATION:

<p><i>☒ Please indicate which threshold applies:</i></p> <p>Is the decision a Key Decision? A Key Decision is an Executive decision which has a significant impact on two or more wards in the District or which results in income or expenditure to the Council above the following thresholds:</p> <p>Revenue (a) Results in the Council making Revenue Savings of £75,000 or more or (b) Results in the Council incurring Revenue Expenditure of £75,000 or more.</p> <p>Capital (a) Results in the Council making Capital Income of £150,000 or more or (b) Results in the Council incurring Capital Expenditure of £150,000 or more.</p> <p>District Wards Significantly Affected: <i>(to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the District)</i> Please state below which wards are affected or tick All if all wards are affected:</p>	<p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>(a) <input type="checkbox"/> (b) <input checked="" type="checkbox"/></p> <p>(a) <input type="checkbox"/> (b) <input checked="" type="checkbox"/></p> <p>All <input type="checkbox"/></p>
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<p>If Yes, is the call-in period to be waived in respect of the decision(s) proposed within this report? <i>(decisions may only be classified as exempt from call-in with the agreement of the Monitoring Officer)</i></p> <p>Consultation carried out: <i>(this is any consultation carried out prior to the report being presented for approval)</i></p> <p>Leader <input type="checkbox"/> Deputy Leader <input type="checkbox"/> Executive <input type="checkbox"/> SLT <input type="checkbox"/> Relevant Service Manager <input type="checkbox"/> Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input type="checkbox"/></p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>
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<p>Links to Council Ambition: Customers, Economy, Environment, Housing</p>
<p>Customers</p>

DOCUMENT INFORMATION:

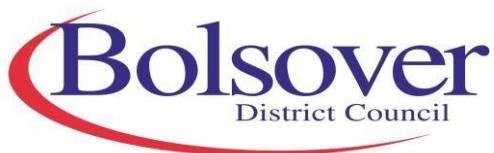
Appendix No	Title
1	Whistleblowing Policy
2	Whistleblowing Register 2025

Background Papers
<i>(These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Executive, you must provide copies of the background papers).</i>

DECEMBER 2024

Bolsover District Council

Whistleblowing Policy



CONTROL SHEET FOR WHISTLEBLOWING POLICY

Policy Details	Comments/Confirmation (to be updated as the document progresses)
Policy title	Whistleblowing Policy
Current status –	Agreed 2021 version, with housekeeping changes only.
Location of Policy –	Corporate Governance
Member route for approval	Standards, then Council
Cabinet Member (if applicable)	N/A
Equality Impact Assessment (approval date)	N/A
Partnership Involvement (if applicable)	N/A
Final Policy approval route (i.e. Executive/Council Committee)	Council
Date Policy approved	Standards Committee 10 th November 2025
Date Policy due for review	Annually
Date Policy forwarded to Strategy and Performance (to include on Intranet and Internet, if applicable to the public)	

WHISTLEBLOWING POLICY

1. Introduction

- 1.1 Employees are often the first to realise that there may be something seriously wrong within a local authority. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances employees may feel that it is easier to ignore the concern, rather than report what may just be a suspicion of malpractice.
- 1.2 The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment the Council encourages employees, Members and others with serious concerns about any aspect of the Council's work to come forward and voice those concerns. It is recognised that certain cases will have to proceed on a confidential basis.
- 1.3 Whistleblowing is the term used when someone who works in or for an organisation raises a concern about a possible fraud, crime, danger or other serious risk that could threaten customers, colleagues, the public or the organisation's own reputation. For example instances of theft from the Council, accepting or offering a bribe, and failure by colleagues to adhere to Health & Safety directives could all be the subject of a Whistleblow.
- 1.4 This policy document makes it clear that concerns can be raised without fear of victimisation, subsequent discrimination or disadvantage. This Whistleblowing Policy is intended to encourage and enable employees to raise concerns within either Council in person, rather than overlooking a problem or using other methods to report concerns.
- 1.5 This policy applies to Council employees and other workers, including freelance staff, temporary and agency staff, trainers, volunteers, consultants, contractors, employees of another Local Authority with whom the Council has entered into joint working arrangements and Members.
- 1.6 This policy also applies to all employees in organisations who work in partnership with the Councils and suppliers who wish to raise a concern.
- 1.7 The Public Interest Disclosure Act 1998 protects Council employees who report concerns from subsequent harassment, victimisation and other unfair treatment. Potential informants should feel reassured that it is illegal for the Council to consider any action against them should their concerns not prove to be verifiable.

2. Aims and Scope of this Policy

2.1 This policy aims to:-

- encourage persons to feel confident in raising serious concerns that they may have about practices and procedures
- provide avenues to raise those concerns and receive feedback on any action taken
- allow persons to take the matter further if they are dissatisfied with the Council's response
- reassure employees that they will be protected from possible reprisals or victimisation if they have made any disclosure

2.2 Areas covered by the Whistleblowing Policy include:-

- criminal or other misconduct
- breaches of the Council's Standing Orders or Financial Regulations
- contravention of the Council's accepted standards, policies or procedures
- disclosures relating to miscarriages of justice
- health and safety risks
- damage to the environment
- unauthorised use of public funds
- fraud, bribery and corruption
- sexual, physical and/or verbal abuse of any person or group
- other unethical conduct
- the concealment of any of the above

2.3 Any concerns about any aspect of service provision or the conduct of officers or Elected Members of the Council, or others acting on behalf of the Council, can be reported under the Whistleblowing Policy. This may be about something that:-

- Makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Council subscribes to; or
- Is against the Council's constitution and policies; or
- Falls below established standards of practice; or
- Amounts to improper conduct

3. When this Policy may not be appropriate

3.1 This policy is not a substitute for the Council's other policies and procedures on such matters as personal grievances, bullying and harassment, health and safety, safeguarding issues (children and/or adults) or complaints. It should also not be used to raise matters relating to an employee's own terms and conditions of service.

3.2 It is important to know the difference between a 'Whistleblow' and a 'grievance.' A Whistleblow has a public interest aspect to it, as it puts others at risk.

- 3.3 A grievance by contrast has no public interest factors, as it is a complaint about a particular employment situation. A grievance should be reported using the Grievance Policy, not this policy.
- 3.4 For example, a member of staff being formally interviewed on capability grounds, without previously having had any indication that their performance was not acceptable, may lead to a grievance complaint being made. Whilst a member of staff who observes colleagues sharing/selling confidential data to un-authorised others, should lead to a Whistleblow.
- 3.5 The policy is not to be used by members of the public to pursue complaints about services. These should be dealt with through the Council's Complaints Procedures.
- 3.6 This Policy is not to be used by members of the public to pursue complaints against councillors conduct. They should direct complaints in the first instance to the Monitoring Officer who will deal with their complaints under the Members Code of Conduct procedure.

4. Safeguards against Harassment or Victimisation

- 4.1 The Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. However, the Council will not tolerate any form of harassment or victimisation, and will take appropriate action to protect persons who have made a disclosure.
- 4.2 The Council is committed to good practice and high standards and endeavours to be supportive of persons who raise concerns under this Policy.
- 4.3 In all cases, the provisions of The Public Interest Disclosure 1998 (PIDA) will be adhered to.
- 4.4 The Enterprise & Regulatory Reform Act 2013 (ERRA) introduced a Public Interest test requirement on Whistleblowers. In order to receive the protection of PIDA, Whistleblowers will now have to show that they reasonably believe that the disclosure they are making is in the public interest.

5. Confidentiality

- 5.1 All concerns will be treated in confidence and the identity of the person raising the concern will not be revealed without his or her consent (subject to any legal requirements or decisions). At the appropriate time, however, the person may be expected to come forward as a witness.

6. Anonymous Allegations

- 6.1 This policy encourages you to put your name to any allegation wherever possible and receive the protection of PIDA as anonymous complaints are likely to be difficult to deal with effectively.

6.2 Concerns expressed anonymously will be considered at the discretion of the Council. In exercising this discretion the factors to be taken into account would include:-

- The seriousness of the issues raised
- The credibility of the concern; and
- The likelihood of confirming the allegation from attributable sources.

7. Untrue Allegations & Legal Protection

7.1 If you are a Council employee you are given legal protection by the Public Interest Disclosure Act 1998. You will qualify for this protection if you reasonably believe that the disclosure is in the public interest.

7.2 If you make what is known as a “qualifying disclosure” under the 1998 Act to your employer or certain other persons/bodies, it will be unlawful for the Council to subject you to any detriment (such as denial of promotion or withdrawal of a training opportunity), or to dismiss you, because of the disclosure.

7.3 Qualifying disclosures are disclosures of information where a Council employee reasonably believes (and it is in the public interest) that one or more of the following matters is either happening, has taken place, or is likely to happen in the future.

- A criminal offence
- The breach of a legal obligation
- A miscarriage of justice
- A danger to the health and safety of any individual
- Damage to the environment
- Deliberate attempt to conceal any of the above.

7.4 Compensation may be awarded to you by an Employment Tribunal if the Council breaches the 1998 Act, following a successful claim for ‘detrimental treatment’.

8. How to raise a Concern under this Policy

8.1 Concerns may be raised normally in writing. Persons who wish to raise a concern should provide details of the nature of the concern or allegation in the following format:

- The background and history of the concern giving names, dates and places where possible.
- The reason why you are particularly concerned about the situation.
- Submit any relevant evidence or documentation.

8.2 The earlier you express the concern the easier it is to take action.

8.3 Although you are not expected to prove beyond reasonable doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.

8.4 Employees may choose to be represented by a colleague or Trade Union representative.

Employees

8.5 Employees should normally raise concerns in the first instance with their Line Manager. Alternatively, dependent upon the nature, seriousness and sensitivity of the issues involved and the person suspected of malpractice you could approach;

- the Service Manager whom you feel would be the most appropriate
- Internal Audit
- the Head of Paid Service (responsible Officer for Safeguarding)
- the Monitoring Officer
- The Section 151 Officer

8.6 You may choose to contact a Prescribed Person. Prescribed persons, as prescribed under the Public Interest Disclosure Act 1998, are independent bodies or individuals that can be approached by whistleblowers where an approach to their employers would not be appropriate. Prescribed persons, which usually have an authoritative relationship with the whistleblowers' organizations, can be regulatory or legislative bodies, central government departments, arm's length bodies or charities and include all Members of Parliament. You may also contact the "Public Concern at Work" helpline if you wish to remain anonymous. The telephone number for this service is: 020 7404 6609.

Other Persons (including Elected Members)

8.7 Other persons can contact any of the following officers of the Councils directly:

- the Service Manager whom you feel would be the most appropriate
- Internal Audit
- the Head of Paid Service (responsible Officer for safeguarding)
- the Monitoring Officer
- The Section 151 Officer

8.8 Officers of the Councils can be contacted in writing, by telephone or by going through one of the Contact Centres. You can contact the Council through your elected Councillor if this is preferable or more convenient.

8.9 You may also choose to contact a body external to the Council such as the External Auditor or the Police or a Prescribed Person.

9 How the Council will respond to a concern raised under this Policy

9.1 The Officer with whom the concern was initially raised will respond in writing within ten working days:

- acknowledging that the concern has been received
- indicating how it is proposed to deal with the matter
- stating whether any initial enquiries have been made
- supplying information on what support is available and stating whether further investigations will take place and if not, why not

9.2 Concerns raised under this Policy will be investigated by the investigating officer who will be appointed at the Council's discretion.

9.3 When conducting the investigation, the investigating officer may involve:-

- Internal Audit
- Legal & Governance Services
- Human Resources
- the Police (in some circumstances the Council will have no choice but to inform the Police if it believes a criminal offence has been committed and may do so without informing the whistleblower)
- an external auditor
- The Monitoring Officer
- The S151 Officer
- The Head of Paid Service (responsible Officer for safeguarding)
- Any other person at the discretion of the investigating officer

9.4 The investigating officer should in the first instance inform any employee who is the subject of a Whistleblowing allegation of the allegation before a decision is taken as to what will happen with it. If the investigating officer determines that this would not be appropriate in the circumstances then he should seek guidance from the Monitoring Officer who may advise not to inform the employee at this stage of the process.

9.5 The investigating officer will make initial enquiries to decide whether an investigation is appropriate and if so what form it should take having regard to the law and the public interest.

9.6 If the investigating officer decides that a disciplinary investigation is the appropriate course of action to take, he/she will advise Human Resources who will instruct an appropriate person to conduct the disciplinary investigation and ensure that the investigation is carried out in accordance with the Councils' Disciplinary Policy.

9.7 Some concerns may be resolved by agreed action without the need for investigation.

9.8 It may be necessary to take urgent action before any investigation is completed.

9.9 The Council will take steps to minimise any difficulties that persons may experience as a result of raising a concern. For instance, if he or she is required to give evidence in criminal or disciplinary proceedings the Council will arrange for advice to be given about the procedure (but not about what answers to give).

9.10 The Councils accept that persons need to be assured that the matter has been properly addressed. Subject to legal constraints, the Council will inform the Whistleblower of the progress and outcome of any investigation.

9.11 It is important for persons to understand that making a Whistleblowing allegation doesn't give them anonymity, but does give them protection from harassment or victimisation.

10 The Responsible Officer

- 10.1 The Monitoring Officer has overall responsibility for the maintenance and operation of this Policy, and will maintain a record of concerns raised and the outcomes. This record will be in a form which does not compromise confidentiality and substantially in the form attached.
- 10.2 The Monitoring Officer will report as necessary to the Council.
- 10.3 The Investigating Officer must inform the Monitoring Officer of the receipt of a concern raised under this Policy, how they intend to deal with it and how the matter was concluded.

11. How the Matter Can Be Taken Further

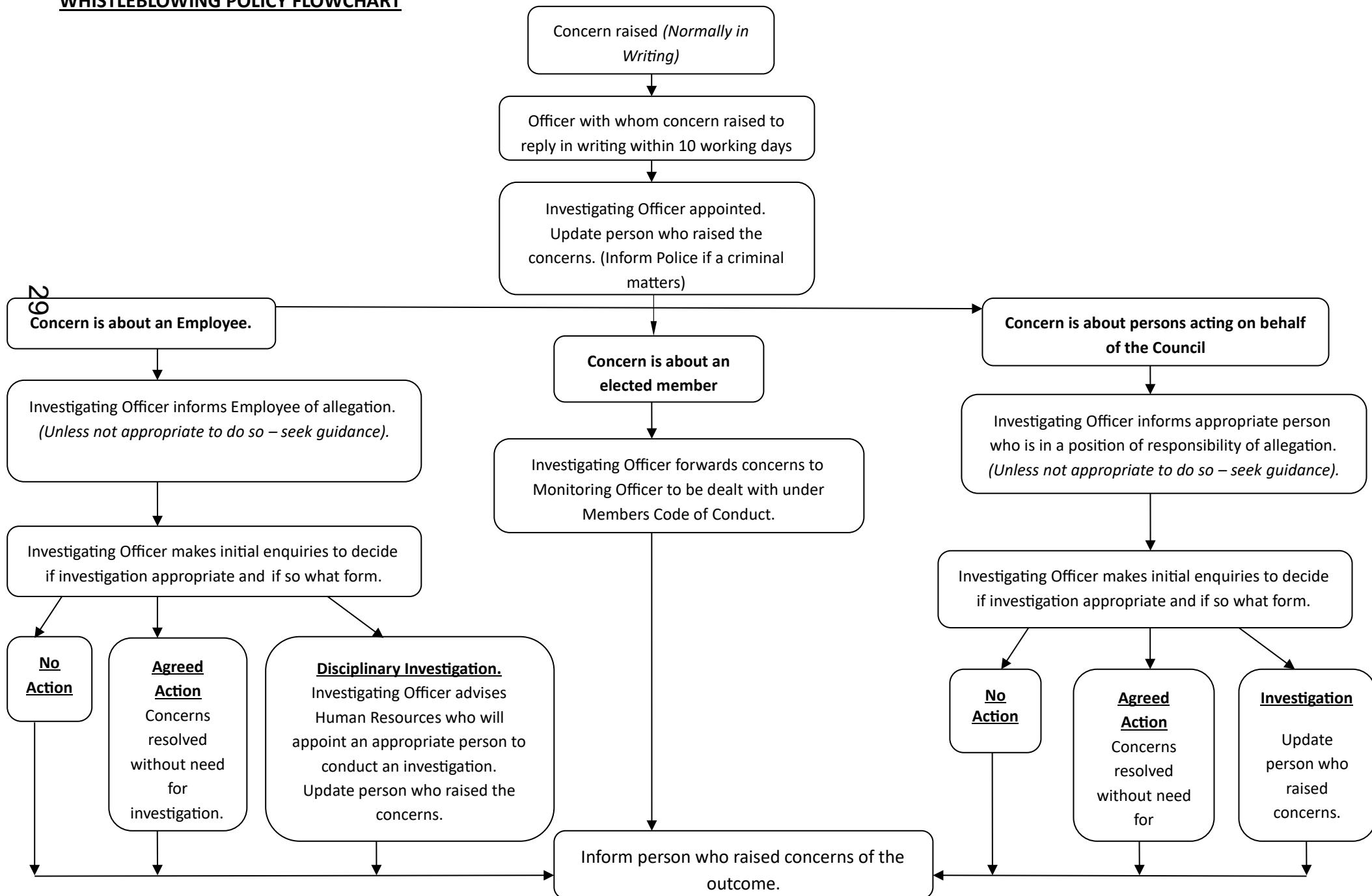
- 11.1 This Policy is intended to provide a process within the Council, through which appropriate persons may raise concerns. If at the conclusion of this process the person is not satisfied with any action taken or feels that the action taken is inappropriate, the following are suggested as further referral points:
 - the Councils external auditor
 - Your Trade Union
 - Your local Citizens Advice Bureau
 - Relevant professional body or regulatory organisation
 - A relevant voluntary organisation
 - The Police
 - Your Solicitor
 - The Audit Commission
- 11.2 Advice should be taken before making an external disclosure and the internal procedure should normally have been followed first.
- 11.3 The Councils would not normally expect Whistleblowers to make disclosures to the press.

12. Whistleblowing Register

- 12.1 The Monitoring Officer in accordance with the Whistleblowing Policy of Bolsover District Council has overall responsibility for the maintenance and operation of this Policy, and will maintain a record of concerns raised and the outcomes. This record will be in a form which does not compromise confidentiality and substantially in the form below.

Number	Council	Details	Outcome
1/20xx			

WHISTLEBLOWING POLICY FLOWCHART



Appendix 2

Whistleblowing Register 2025

Number	Details of complaint	Outcome
01/2025	Information was provided which required an investigation of a staff member for potential gross misconduct.	A formal investigation was undertaken and appropriate action was undertaken in accordance with the Council's policies and procedures.
02/2025	An anonymous complaint was received regarding a recruitment matter.	No further action was taken as the anonymous information received was inaccurate, unevidenced and vexatious in content.

BOLSOVER DISTRICT COUNCIL

Meeting of the Standards Committee on 9th February 2026

Change to the Council's Constitution

Report of the Director of Governance and Legal Services & Monitoring Officer

Classification	This report is Public
Contact Officer	Jim Fieldsend, Director of Governance and Legal Services & Monitoring Officer

PURPOSE/SUMMARY OF REPORT

To clarify the term “working days” in the Constitution.

REPORT DETAILS

1. Background

- 1.1 The Council's Constitution contains numerous time limits for completing actions and a number of these actions refer to working days. For example, notice of questions under rule 9.3 of the Council Procedure Rules must be submitted no later than midday, twelve clear working days before the date of a Council meeting.
- 1.2 The term working days is not defined and so, following a query from one Member, this needs to be clarified.

2. Details of Proposal or Information

- 2.1 The usual interpretation of the term “working day” is Monday to Friday excluding weekends and bank/public holidays. Many pieces of legislation such as the Companies Act 2006 and the Data Protection Act 2018 use this definition for filing documents or responding to notices. This is also a definition recognised by organisations such as ACAS and HMRC. With this in mind and in the context of the various rules within the Council's Constitution where notices are served on officers who only work Monday to Friday it would be irrational to interpret “working day” any other way.
- 2.2 It is therefore proposed that the Constitution be updated to include a definition of “working day” to mean Monday to Friday excluding weekends and bank/public holidays.

3. Reasons for Recommendation

3.1 To clarify what is meant by the term “working day” in the Constitution.

4 Alternative Options and Reasons for Rejection

4.1 To agree a different definition. The proposed definition is the universally accepted version of the term.

RECOMMENDATION(S)

1. That the Committee recommend to Council to include a definition of the term “working day” to mean Monday to Friday excluding weekends and bank/public holidays.

IMPLICATIONS:

<u>Finance and Risk</u>	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Details:	On behalf of the Section 151 Officer	
<u>Legal (including Data Protection)</u>	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Details:	On behalf of the Solicitor to the Council	
<u>Staffing</u>	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Details:	On behalf of the Head of Paid Service	
<u>Equality and Diversity, and Consultation</u>	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Details:		
<u>Environment</u>	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Please identify (if applicable) how this proposal/report will help the Authority meet its carbon neutral target or enhance the environment		
Details:		

DECISION INFORMATION:

<p><input checked="" type="checkbox"/> Please indicate which threshold applies:</p> <p>Is the decision a Key Decision? A Key Decision is an Executive decision which has a significant impact on two or more wards in the District or which results in income or expenditure to the Council above the following thresholds:</p> <p>Revenue (a) Results in the Council making Revenue Savings of £75,000 or more or (b) Results in the Council incurring Revenue Expenditure of £75,000 or more.</p> <p>Capital (a) Results in the Council making Capital Income of £150,000 or more or (b) Results in the Council incurring Capital Expenditure of £150,000 or more.</p> <p>District Wards Significantly Affected: (to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the District) Please state below which wards are affected or tick All if all wards are affected:</p>	<p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>(a) <input type="checkbox"/> (b) <input checked="" type="checkbox"/></p> <p>(a) <input type="checkbox"/> (b) <input checked="" type="checkbox"/></p> <p>All <input type="checkbox"/></p>
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<p>If Yes, is the call-in period to be waived in respect of the decision(s) proposed within this report? (<i>decisions may only be classified as exempt from call-in with the agreement of the Monitoring Officer</i>)</p> <p>Consultation carried out: (this is any consultation carried out prior to the report being presented for approval)</p> <p>Leader <input type="checkbox"/> Deputy Leader <input type="checkbox"/> Executive <input type="checkbox"/> SLT <input type="checkbox"/> Relevant Service Manager <input type="checkbox"/> Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input type="checkbox"/></p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>
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<p>Links to Council Ambition: Customers, Economy, Environment, Housing</p>	
<p>Customers</p>	

DOCUMENT INFORMATION:

Appendix No	Title

Background Papers
<p><i>(These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Executive, you must provide copies of the background papers).</i></p>

DECEMBER 2024

BOLSOVER DISTRICT COUNCIL

Meeting of the Standards Committee on 9th February 2026

Government Response to the Consultation on Changes to the Standards Framework

Report of the Director of Governance and Legal Services & Monitoring Officer

Classification	This report is Public
Contact Officer	Jim Fieldsend, Director of Governance and Legal Services & Monitoring Officer

PURPOSE/SUMMARY OF REPORT

To advise the Committee of the Government's response to the consultation on Strengthening the Standards and Conduct Framework for Local Authorities in England

REPORT DETAILS

1. Background

1.1 In 2025 the Government consulted on proposed reforms to the standards regime for local authorities. A summary of the response to the consultation including legislative proposals are set out in section 2 below. The full document is set out in Appendix 1 to this report.

2. Details of Proposal or Information

2.1 The Government received 2,092 responses to its consultation on reforms to the standards and conduct framework. The responses indicate broad support for systemwide reform of the current legislative regime contained within the Localism Act 2011. The response indicates support for stronger sanctions accompanied by commensurate procedural safeguards. The stated intention of the reforms is to ensure that misconduct is dealt with promptly and fairly, whilst strengthening public confidence in local democratic institutions.

2.2 Key themes

The Government's response places emphasis on the role of the standards framework in supporting a positive organisational culture within local authorities. It recognises that elected members are expected to demonstrate leadership through their behaviour and that poor conduct can have a wider impact on officers, fellow councillors and members of the public.

- 2.3 The response acknowledges concerns raised during the consultation that persistent poor behaviour, including bullying or intimidating conduct, can cause significant personal distress and undermine effective governance. The proposed reforms are intended to strengthen councils' ability to address such behaviour and to reinforce expectations of decency, professionalism and respectful working relationships.
- 2.4 The Ministerial foreword notes the importance of maintaining space for robust political debate and the expression of strongly held views within local democracy. At the same time, it emphasises that such debate should take place within a framework of fair and reasonable democratic discourse, characterised by respectful behaviour and conduct. The response makes clear that the standards regime is not intended to inhibit legitimate political disagreement, but rather to address conduct that crosses the line into behaviour that is toxic, intimidating or undermines confidence in local democratic institutions.
- 2.5 The Government recognises that the conduct of elected members increasingly takes place in public and online settings, including through the use of social media. Respondents to the consultation highlighted that behaviour in these forums can have a significant impact on public trust and on relationships within councils. The Government indicates that matters such as the use of social media are likely to be addressed through a mandatory minimum code of conduct and associated guidance.
- 2.6 Proposed changes

The Government proposes to legislate for a mandatory minimum code of conduct for all local authorities in England. The code will embed the Seven Principles of Public Life and require members to co-operate with standards investigations. Local authorities will be permitted to develop guidance and protocols that align with the mandatory code, but these will not form part of the statutory code itself.

- 2.7 The Government intends to require all principal authorities to formally constitute Standards Committees to consider the outcome of investigations into Code of Conduct breaches. Moreover, decisions on the application of sanctions will be taken by those committees. There is also support in the response for co-opted members holding voting rights and for standards committees to be chaired by either an independent or co-opted member.
- 2.8 The Government proposes that councils should be required to publish the outcome of investigations and decisions once concluded, including cases where a member has been exonerated or where a member has stood down during an investigation.
- 2.9 Respondents to the consultation emphasised the importance of support for those affected by misconduct by councillors. In response, the Government has stated they intend to develop best practice guidance on complaint handling and support mechanisms for those impacted.
- 2.10 The Government proposes to legislate to give local authorities the power to suspend elected members for serious breaches of the Code of Conduct for up to six months. During this period, councils would have the discretion to withhold allowances and impose bans on access to council facilities. Any decisions on

suspension would be made by standards committees, following formal investigation and the views of the Independent Person.

- 2.11 In serious cases, where a councillor is subject to external investigation or where a court decision is pending, the Government plans to legislate for interim suspensions. Interim suspensions would last for up to three months and be subject to ongoing review by standards committees.
- 2.12 The response confirms the Government's intention to introduce disqualification where a member is suspended twice within a five-year period, reflecting a cumulative pattern of serious misconduct.
- 2.13 The Government proposes a 'right for review' for both complainants and subject-members to request local reassessment of standards committee decisions. Pending further engagement with the sector, there will also be a national appeals function following the exhaustion of local review processes.

2.4 Public/stakeholder engagement

The consultation response reflects input from a wide range of stakeholders, including councillors, council officers, sector bodies, and members of the public. The Government indicates it will continue to engage with local government representative organisations as proposals are developed into draft legislation.

3. Reasons for Recommendation

- 3.1 To ensure members of the Standards Committee are informed of Government policy developments that may affect Derby City Council's locally agreed standards procedures.

4 Alternative Options and Reasons for Rejection

- 4.1 There are none.

RECOMMENDATION(S)

1. To note the contents of the Government's consultation response as summarised in the report

IMPLICATIONS:

<u>Finance and Risk</u>	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Details:		
On behalf of the Section 151 Officer		

Legal (including Data Protection)	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Details: The current standards framework is detailed within the Localism Act 2011. The Government's intended reforms will require primary legislation and Parliamentary approval prior to adoption. The timescale for this is not currently known.		
On behalf of the Solicitor to the Council		
Staffing	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Details:		
On behalf of the Head of Paid Service		
Equality and Diversity, and Consultation	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Details: The proposed reforms will improve the ability of the Council to act in circumstances where a councillor may be in breach of the local authority's legal responsibilities under the Equalities Act 2010.		
Environment	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Please identify (if applicable) how this proposal/report will help the Authority meet its carbon neutral target or enhance the environment		
Details:		

DECISION INFORMATION:

<i>☒ Please indicate which threshold applies:</i>		
Is the decision a Key Decision? A Key Decision is an Executive decision which has a significant impact on two or more wards in the District or which results in income or expenditure to the Council above the following thresholds:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Revenue (a) Results in the Council making Revenue Savings of £75,000 or more or (b) Results in the Council incurring Revenue Expenditure of £75,000 or more.	(a) <input type="checkbox"/>	(b) <input checked="" type="checkbox"/>
Capital (a) Results in the Council making Capital Income of £150,000 or more or (b) Results in the Council incurring Capital Expenditure of £150,000 or more.	(a) <input type="checkbox"/>	(b) <input checked="" type="checkbox"/>
District Wards Significantly Affected: <i>(to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the District)</i>	All <input type="checkbox"/>	

Please state below which wards are affected or tick All if all wards are affected:	
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<p>If Yes, is the call-in period to be waived in respect of the decision(s) proposed within this report? (<i>decisions may only be classified as exempt from call-in with the agreement of the Monitoring Officer</i>)</p> <p>Consultation carried out: (this is any consultation carried out prior to the report being presented for approval)</p> <p>Leader <input type="checkbox"/> Deputy Leader <input type="checkbox"/> Executive <input type="checkbox"/> SLT <input type="checkbox"/> Relevant Service Manager <input type="checkbox"/> Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input type="checkbox"/></p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>
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Links to Council Ambition: Customers, Economy, Environment, Housing
<p>Customers</p>

DOCUMENT INFORMATION:

Appendix No	Title
1	Strengthening the standards and conduct framework for local authorities in England – consultation results and government response

Background Papers
<p>(These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Executive, you must provide copies of the background papers).</p>

DECEMBER 2024



Ministry of Housing,
Communities &
Local Government

Consultation outcome

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

Updated 11 November 2025

Contents

Ministerial foreword

Introduction

Introduction of a mandatory code of conduct

Standards Committees

Empowering individuals affected by councillor misconduct to come forward

Introducing the sanction of suspension

Interim suspension

Disqualification for multiple breaches and gross misconduct

Appeals and a national appeals function

Annex - consultation responses report



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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>) 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 46 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 ⁵² 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 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 to 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.



BOLSOVER DISTRICT COUNCIL

Meeting of the Standards Committee on 9th February 2026

Member Complaints

Report of the Director of Governance and Legal Services & Monitoring Officer

Classification	This report is Public
Contact Officer	Jim Fieldsend, Director of Governance and Legal Services & Monitoring Officer

PURPOSE/SUMMARY OF REPORT

- To update on the complaints made against councillors since 1st January 2025.

REPORT DETAILS

1. Background

- 1.1 All those working or serving in public life including M.P.s, councillors and employees are required to adhere to the Nolan Principles of Public Life, i.e selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- 1.2 Councillors are also required to agree to sign up to a code of conduct which is designed to regulate their behaviour in the form of a clear set of rules. Each council has its own code of conduct however many, like Bolsover District Council, will have adopted the Local Government Association's standard code. The code requires councillors to:
 - Treat others with respect;
 - Not bully, harass or discriminate against people;
 - Act impartially;
 - To treat certain information as confidential;
 - Not to bring the Council or the role as councillor into disrepute;
 - Not to misuse the position as councillor;
 - Not to misuse Council resources;
 - Cooperate with any Code of Conduct investigation;
 - Comply with rules regarding disclosure of interest;
 - Comply with gifts and hospitality rules;
 - Undertake all mandatory training.

- 1.3 If a councillor fails to comply with the requirements of the code a complaint can be made to the Council's Monitoring Officer, who is responsible for maintaining councillor standards at both District and Town Council level.
- 1.4 When a complaint is made the Monitoring Officer will assess whether the councillor in question was a councillor at the time of the incident and whether he/she was acting as a councillor when the incident occurred. The Monitoring Officer is not concerned about incidents occurring whilst a councillor is acting in a private capacity. The Monitoring Officer will also consider whether, if proven, does the behaviour amount to a breach of the code.
- 1.5 If a complaint meets the basic criteria the Monitoring Officer will decide whether to undertake a more detailed investigation. Many breaches are of a nature where it is not in the public interest to justify a formal investigation. These breaches can be dealt with by the councillor accepting that there has been a breach and offering an apology or agreeing to some training. However, occasionally a councillor will not accept that there has been a breach and the Monitoring Officer will appoint someone to investigate.
- 1.6 Where an investigation is held, if the investigator finds that no breach has occurred no further action will be taken. However, where a breach is found to have been held, this can either result in more informal action, e.g. an apology or training or a formal hearing in front of the Standards Sub-Committee. If the Sub-Committee finds that the councillor has breached the code of conduct they have limited powers. For instance, they can censure the councillor, they can recommend that they undertake training, they can recommend to the council concerned that they be removed from a position of responsibility. Currently there is no power to suspend a councillor from office, however the Government have recently consulted on proposals to strengthen the standards and conduct framework which includes a proposal to suspend councillors for more serious breaches and for persistent breaches. We are currently waiting to hear what the Government proposes to do following the consultation and this will be reported to a future Standards Committee.
- 1.7 Throughout the complaints process the Monitoring Officer will consult with someone known as an Independent Person. Currently the Council has three Independent Persons who act as a sounding board for the Monitoring Officer, two of which were recently appointed by the Council in its meeting on 8th October.

2. Details of Proposal or Information

- 2.1 Appendix 1 of the report sets out details of the complaints received since the start of 2025. So far at the time of writing we have processed 22 complaints. Some of the complaints are about more than one councillor and other complaints have been made by more than one complainant. Six complaints are currently under investigation or due to be investigated. Three new complaints are being assessed as to whether an investigation is necessary. Three complaints have resulted in councillors accepting they have breached the code and apologised to the complainant. Two councillors resigned as a councillor soon after a complaint being made and no further action taken. The remainder of the complaints were not

considered to be matters that fell under the jurisdiction of the member complaints regime.

3. Reasons for Recommendation

3.1 To keep members of Standards Committee updated on code of conduct complaints.

4 Alternative Options and Reasons for Rejection

4.1 There are no alternative options.

RECOMMENDATION(S)

1. That the Committee note the report.

IMPLICATIONS:

<u>Finance and Risk</u>	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Details:		
	On behalf of the Section 151 Officer	
<hr/>		
<u>Legal (including Data Protection)</u>	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Details:		
Section 28(6) and (7) of the Localism Act 2011 requires the Council to have arrangements in place under which allegations that a district town or parish councillor within its area has failed to comply with that authority's code of conduct can be investigated and decisions made on such allegations.		
<hr/>		
	On behalf of the Solicitor to the Council	
<hr/>		
<u>Staffing</u>	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Details:		
<hr/>		
On behalf of the Head of Paid Service		
<hr/>		
<u>Equality and Diversity, and Consultation</u>	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Details:		
<hr/>		

Environment**Yes No**

Please identify (if applicable) how this proposal/report will help the Authority meet its carbon neutral target or enhance the environment

Details:**DECISION INFORMATION:*****☒ Please indicate which threshold applies:*****Is the decision a Key Decision?**

A Key Decision is an Executive decision which has a significant impact on two or more wards in the District or which results in income or expenditure to the Council above the following thresholds:

Revenue **(a)** Results in the Council making Revenue Savings of £75,000 or more or **(b)** Results in the Council incurring Revenue Expenditure of £75,000 or more.

Capital **(a)** Results in the Council making Capital Income of £150,000 or more or **(b)** Results in the Council incurring Capital Expenditure of £150,000 or more.

District Wards Significantly Affected:

(to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the District)

Please state below which wards are affected or tick **All** if all wards are affected:

Yes No **(a) (b)** **(a) (b)** **All**

If Yes, is the call-in period to be waived in respect of the decision(s) proposed within this report? ***(decisions may only be classified as exempt from call-in with the agreement of the Monitoring Officer)***

Yes No **Consultation carried out:**

(this is any consultation carried out prior to the report being presented for approval)

Yes No **Leader Deputy Leader Executive SLT** **Relevant Service Manager Members Public** **Other** **Links to Council Ambition: Customers, Economy, Environment, Housing**

Customers.

DOCUMENT INFORMATION:

Appendix No	Title
1	Councillor Complaints Received 2025/2026

Background Papers
<p><i>(These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Executive, you must provide copies of the background papers).</i></p>

DECEMBER 2024

Appendix 1

BDC COMPLAINTS MADE AGAINST COMPLAINTS RECEIVED 2025/26

DATE OF RECEIPT	PART OF CODE OF CONDUCT ALLEGED TO HAVE BEEN BREACHED	PARISH/TOWN COUNCIL OR DISTRICT COUNCIL	WHETHER A POTENTIAL BREACH WAS FOUND	REASONS FOR DECISION/ ACTION
02/01	Failure to act with impartiality Failing to show respect	District Council	No	No evidence of failure to act with impartiality Not acting in councillor capacity with regards respect
12/01	Failing to show respect	District Council	No	Not acting in capacity as councillor
26/01	Failing to show respect- comments made during in a council meeting that complainant found offensive.	District Council	No	Councillor apologised for the offence caused.
03/02	Bullying Please note 2 complaints of bullying received at the same time. This is being treated as one complaint	Parish/Town Council	N/A	This is currently under investigation.
17/02	Respect/Bringing Council into disrepute	District Council	Yes	The Councillor has apologised for any offence caused
27/03	Bringing the Council into disrepute	Parish/Town Council	N/A	Insufficient evidence of a breach

27/03	Predetermination Please note this complaint has been made against 3 councillors arising from the same incident	Parish/Town Council	N/A	Actions did not amount to a breach of the code
27/03	Failing to show respect Please note this complaint has been made against 3 councillors arising from the same incident	Parish/Town Council	N/A	Actions did not amount to a breach of the code
07/04	Failure to respond to questions at a meeting.	Parish/Town Council	N/A	This is currently under investigation.
19/05	Failing to show respect	Parish Council	N/A	Councillor resigned before action
14/06	Disrepute- councillor not being honest in email communication.	District Council	N/A	This is currently under investigation.
20/06	Respect- councillor not being respectful in email communication	District Council	N/A	This is currently under investigation.
24/07	Respect- inappropriate comment during a Council meeting	District Council	Yes	The Councillor has apologised for any offence caused
01/08	Bullying	Parish/Town Council	N/A	Awaiting result of earlier investigation before determining how to proceed.
02/09	Respect following inappropriate remarks made at a meeting . Complaint received from several	Parish/Town Council	N/A	Councillor resigned before action

	individual relating to the same incident.			
02/09	Various allegations of breach of code	Parish/Town Council	N/A	Investigation to be undertaken
04/11	Complaint about how a parish chair handled a meeting	Parish/Town Council	N/A	Behaviour would not have amounted to a breach of the code of conduct.
12/12	Breach of confidentiality. Respect-inappropriate comments during a meeting	District		Investigation to be undertaken
17/01	Respect	Parish		Initial assessment still being undertaken
20/01	Bullying and harassment	Parish		Initial assessment still being undertaken
24/01	Failure to declare an interest	Parish		Initial assessment still being undertaken
24/01	Disrespect	Parish	N/A	Councillor not acting in official capacity



BOLSOVER DISTRICT COUNCIL

Meeting of the Standards Committee on 9th February 2026

RIPA Annual Report

Report of the Director of Governance and Legal Services & Monitoring Officer

Classification	This report is Public
Contact Officer	Jim Fieldsend, Director of Governance and Legal Services & Monitoring Officer

PURPOSE/SUMMARY OF REPORT

To provide an update on Regulation of Investigatory Powers Act 2000 (RIPA) applications and application of the RIPA Policy.

To note the Investigatory Powers Commissioner's Office (IPCO) communication to the Council.

To approve changes to the RIPA Policy as recommended by IPCO.

REPORT DETAILS

1. Background

1.1 One of Standard Committee's terms of reference is to review the operation of the Council's RIPA policy. This is the policy that determines how officers of the Council may undertake covert surveillance.

2. Details of Proposal or Information

2.1 In early 2025 the IPCO undertook an inspection of the Council's arrangements for dealing with covert surveillance. IPCO was satisfied that the Council was complying with its obligation as set out in RIPA and the Investigatory Powers Act 2016.

2.2 The IPCO found that the Council's RIPA Policy (approved by Standards Committee in September 2024) was a useful and comprehensive document, however made some suggestions on how certain parts of the policy could be clarified:

- References to the Office for Communications Data Authorisations (OCDA) should be updated after OCDA became part of IPCO in March 2024.

- Section 3 point 3 ("Merely giving a complainant a diary sheet to note comings and goings will not make that person a CHIS. There must be covert use of the relationship to provide access to, or to disclose information covertly for someone to be a CHIS") could helpfully be updated to make clear a directed surveillance authorisation may need to be considered in such circumstances. Please see the section, "Tasking not involving relationships" beginning at Paragraph 2.24 of the Covert Human Intelligence Sources Code of Practice and Paragraph 4.32 of the Covert Surveillance and Property Interference Code of Practice for further details.
- Section 3 point 3, "A test purchaser may not always require authorisation (even though they are a CHIS)" would benefit from further explanation/clarification as to the circumstances in which it is envisaged a CHIS would not require appropriate authorisation.
- The section "Directed Surveillance and Social Media" correctly sets out key considerations when using the internet as part of investigation or enforcement work, but could be strengthened by detailing how such usage is overseen/monitored/audited to try and mitigate the risk of inadvertent, unauthorised RIPA activity.

2.3 Appendix 1 contains the RIPA policy with a number of the changes as recommended by IPCO. Currently there is no formal monitoring of internet enforcement so further work will be required to explore how this can be achieved.

2.4 In addition, it is important that relevant staff are properly trained. Appropriate training was provided to officers in September 2025 by an external training provider.

2.5 As for RIPA authorisations themselves it is extremely rare for the Council to need to carry out covert surveillance and no applications have been applied for or granted since the Standards Committee considered the use of RIPA last year.

3. Reasons for Recommendation

3.1 To notify Standards Committee of the Council's application of RIPA and to seek approval to make changes to the RIPA policy.

4 Alternative Options and Reasons for Rejection

4.1 Not to approve the changes. This is rejected as the changes are recommended by IPCO. They are mainly for clarification purposes only.

RECOMMENDATION(S)

That Standards Committee

1. Note the content of this report; and
2. Approve the proposed changes to the RIPA policy.

IMPLICATIONS:

<u>Finance and Risk</u>	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Details:		
	On behalf of the Section 151 Officer	
<u>Legal (including Data Protection)</u>	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Details:		
Failure of the Council to adhere to the legal requirements of RIPA could lead to unlawful investigatory activity being undertaken, making the Council vulnerable to complaints, legal challenge and reputational damage and costs. It is important therefore that the policy is regularly reviewed and that officers receive sufficient training which will mitigate the likelihood of this risk occurring.		
	On behalf of the Solicitor to the Council	
<u>Staffing</u>	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Details:		
	On behalf of the Head of Paid Service	
<u>Equality and Diversity, and Consultation</u>	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Details:		
<u>Environment</u>	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Please identify (if applicable) how this proposal/report will help the Authority meet its carbon neutral target or enhance the environment		
Details:		

DECISION INFORMATION:

<i>☒ Please indicate which threshold applies:</i>	
Is the decision a Key Decision? A Key Decision is an Executive decision which has a significant impact on two or more wards in the District or which results in income or expenditure to the Council above the following thresholds:	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

<p>Revenue (a) Results in the Council making Revenue Savings of £75,000 or more or (b) Results in the Council incurring Revenue Expenditure of £75,000 or more.</p> <p>Capital (a) Results in the Council making Capital Income of £150,000 or more or (b) Results in the Council incurring Capital Expenditure of £150,000 or more.</p> <p>District Wards Significantly Affected: <i>(to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the District)</i> Please state below which wards are affected or tick All if all wards are affected:</p>	<input type="checkbox"/> (a) <input checked="" type="checkbox"/> (b) <input type="checkbox"/> (a) <input checked="" type="checkbox"/> (b) All <input type="checkbox"/>
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<p>If Yes, is the call-in period to be waived in respect of the decision(s) proposed within this report? <i>(decisions may only be classified as exempt from call-in with the agreement of the Monitoring Officer)</i></p> <p>Consultation carried out: <i>(this is any consultation carried out prior to the report being presented for approval)</i></p> <p>Leader <input type="checkbox"/> Deputy Leader <input type="checkbox"/> Executive <input type="checkbox"/> SLT <input type="checkbox"/> Relevant Service Manager <input type="checkbox"/> Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input type="checkbox"/></p>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
--	---

<p>Links to Council Ambition: Customers, Economy, Environment, Housing</p>	
<p>Customers</p>	

DOCUMENT INFORMATION:

Appendix No	Title
1	RIPA Policy

<p>Background Papers</p> <p><i>(These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Executive, you must provide copies of the background papers).</i></p>
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Bolsover District Council

RIPA Policy

September 2024

Equalities Statement

Bolsover District Council is committed to equalities as an employer and when delivering the services it provides to all sections of the community.

The Council believes that no person should be treated unfairly and is committed to eliminating all forms of discrimination, advancing equality and fostering good relations between all groups in society.

Access for All statement

You can request this document or information in another format such as large print or **language** or contact us by:

- **Phone:** [01246 242424](tel:01246242424)
- **Email:** enquiries@bolsover.gov.uk
- **BSL Video Call:** A three-way video call with us and a BSL interpreter. It is free to call Bolsover District Council with Sign Solutions, you just need WiFi or mobile data to make the video call, or call into one of our Contact Centres.
- Call with [Relay UK](#) - a free phone service provided by BT for anyone who has difficulty hearing or speaking. It's a way to have a real-time conversation with us by text.
- **Visiting** one of our [offices](#) at Clowne, Bolsover, Shirebrook and South Normanton

Policy Details	Comments / Confirmation (To be updated as the document progresses)
Policy title	RIPA Corporate Policy and Procedures
Current status – i.e. first draft, version 2 or final version	Draft (2024 Review)
Policy author	
Location of policy – i.e. L-drive, shared drive	S Drive
Member route for approval	Standards Committee
Cabinet Member (if applicable)	
Equality Impact Assessment approval date	July 2017
Partnership involvement (if applicable)	N/A
Final policy approval route i.e. Executive/ Council /Planning Committee	Standards Committee
Date policy approved	
Date policy due for review (maximum three years)	xx 2027
Date policy forwarded to Strategy and Performance (to include on Intranet and Internet if applicable to the public)	

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Appendix II	Guide for Authorising Officers authorising Directed Surveillance	
Appendix III	Guide for Authorising Officers authorising Covert Human Intelligence Sources	

Abbreviations

CCTV	Closed Circuit Television
Council	Bolsover District Council
CHIS	Covert Human Intelligence Source
DPA	Data Protection Act 2018
ECHR	European Convention for the Protection of Human Rights
HRA	Human Rights Act 1998
IPA	Investigatory Powers Act 2016
IPCO	Investigatory Powers Commissioners Office
JP	Justice of the Peace / Magistrate
NAFN	National Anti-Fraud Network
POFA	Protection of Freedoms Act 2012
RIPA	Regulation of Investigatory Powers Act 2000
SPOC's	Single Points of Contact
SRO	Senior Responsible Officer (Monitoring Officer)

SECTION 1 - POLICY STATEMENT

Introduction

1. This Policy document is based upon the requirements of the Regulation of Investigatory Powers Act 2000, the national Code of Practice issued by the Home Office and Investigatory Powers Commissioner's Office. Links to the Home Office Guidance and Codes of Practice can be found here <https://www.gov.uk/government/collections/ripa-codes>
2. In limited circumstances the Council may wish to use surveillance techniques for the purpose of enforcing this Policy or other of its statutory functions. The requirements of RIPA and the IPA are most likely to apply to those sections of the Council with enforcement / investigatory functions.
3. RIPA is concerned with the regulation of surveillance and other intelligence gathering by public authorities in the conduct of legitimate business. IPA sets out the extent to which certain investigatory powers may be used to interfere with privacy.
4. RIPA sets out procedures that must be followed to ensure investigatory activity is lawful. Where properly authorised under RIPA the activity will be a justifiable interference with an individual's rights under the ECHR. If the interference is not properly authorised an action for breach of the HRA could be taken against the Council, a complaint of maladministration made to the Local Government

Ombudsman or a complaint made to the Investigatory Powers Tribunal. In addition, if the procedures are not followed any evidence collected may be disallowed by the courts.

5. IPA sets our procedures for the interception of communications, equipment interference and the acquisition and retention of communications data.
6. The aims of RIPA and IPA are to provide a balance between preserving people's right to privacy and enabling enforcement agencies to gather evidence for effective enforcement action. RIPA provides a statutory framework for the use of certain types of covert surveillance, IPA provides the statutory framework for the lawful interception and use of communications data.
7. Any potential use of RIPA / IPA should be referred to the Monitoring Officer for preliminary advice at the earliest possible opportunity on 01246 242472. In the Monitoring Officer's absence, advice should be sought from Legal Services Team Manager /Deputy Monitoring Officer on 01246 242 507.

PART 1 – RIPA

What RIPA does and does not do

1. **RIPA does:-**
 - require prior authorisation and judicial approval of directed surveillance;
 - prohibit the Council from carrying out intrusive surveillance;
 - require authorisation of the conduct and use of CHIS;
 - require safeguards for the conduct of the use of a CHIS.
2. **RIPA does not:-**
 - make unlawful conduct which is otherwise lawful;
 - prejudice or disapply any existing power available to the Council to obtain information by any means not involving conduct that may be authorised under RIPA. For example, it does not affect the Council's current powers to obtain information from the DVLA as to the owner of a vehicle or to obtain information from the Land Registry as to the owner of a property;
3. RIPA only applies to the Council's core functions – i.e. its statutory duties, and not staffing issues or contractual disputes.

Procedure

4. All covert surveillance shall be undertaken in accordance with the procedures set out in this document.
5. The Council shall ensure that covert surveillance is only undertaken where it complies fully with all applicable laws in particular the:-

- a. Human Rights Act 1998
- b. Regulation of Investigatory Powers Act 2000
- c. Protection of Freedoms Act 2012
- d. Data Protection Act 2018

6. The Council will also have due regard to all official guidance and codes of practice particularly those issued by the Home Office, the Investigatory Powers Commissioner's Office, the Surveillance Camera Commissioner and the Information Commissioner.

7. In particular the following guiding principles shall form the basis of all covert surveillance activity undertaken by the Council:

- Covert surveillance will only be undertaken where it is absolutely necessary to achieve the desired aims.
- Covert surveillance will only be undertaken where it is proportionate to do so and in a manner that it is proportionate.
- Adequate regard shall be had to the rights and freedoms of those who are not the target of the covert surveillance
- All authorisations to carry out covert surveillance shall be granted by appropriately trained and designated authorising officers. A list of those authorising officers who have been nominated by their Directorate and have undertaken appropriate training is held by the SRO.
- Covert surveillance which is regulated by RIPA shall only be undertaken after obtaining judicial approval.
- The operation of this Policy will be overseen by the SRO, whose role is described later in this document.

Training

8. The SRO / Monitoring Officer will arrange regular training on RIPA. All authorising officers, designated persons and investigating officers should attend at least one session every two years and further sessions as and when required.
9. All Council officers undertaking and authorising covert surveillance shall be appropriately trained to ensure that they understand their legal and moral obligations.
10. Training can be arranged on request and requests should be made to the Monitoring Officer. In particular training should be requested for new starters within the Council who may be involved in relevant activities.

SECTION 2 - SURVEILLANCE

Types of Surveillance

1. Surveillance can be **overt** or **covert** and includes:-
 - Monitoring, observing or listening to persons, their movements, their conversations or their other activities or communications;
 - Recording anything monitored, observed or listened to in the course of surveillance; and
 - Surveillance by or with the assistance of a device
2. Indicators of whether investigatory activity will amount to surveillance include the formality and duration of the activity and the nature of what is being observed.

Overt Surveillance

3. The majority of the Council's surveillance activity will be overt surveillance, i.e. will be carried out openly. For example (i) where the Council performs regulatory checks on licensees to ensure they are complying with the terms of any licence granted; and (ii) where the Council advises a tenant that their activities will be monitored as a result of neighbour nuisance allegations. **This type of overt surveillance is normal Council business and does not require authorisation under RIPA.**
4. If Surveillance is being done openly, without making any attempt to conceal it or a warning letter is served on the target before the Surveillance is to be done, then it will be overt.

Covert Surveillance

5. This is where surveillance is carried out in a manner calculated to ensure that the person subject to the surveillance is unaware it is taking place. Covert surveillance can be intrusive or directed. The Council is not permitted to carry out covert intrusive surveillance. Paragraph 8 below explains when covert surveillance is intrusive and therefore not permitted. The Council is permitted to carry out covert directed surveillance subject to strict compliance with RIPA. Paragraph 9 below explains when covert surveillance is directed.
6. Part 2 of RIPA sets out a regulatory framework for the use of covert investigatory techniques by public authorities to ensure that they are compatible with the ECHR particularly Article 8, 'the right to respect for private and family life'.
7. The purpose of this part of the procedure is to help you decide what type of surveillance you are doing and whether it is therefore regulated by Part 2.

Covert Intrusive Surveillance

8. Covert intrusive surveillance takes place when covert surveillance is carried out in relation to anything taking place on residential premises or in a private vehicle and which involves the presence of an individual or surveillance device on the premises or in the vehicle, or which uses a device placed outside the premises or vehicle which consistently provides information of the same quality and detail as expected of a device placed inside. **The Council is not permitted to carry out this type of surveillance.** (see **Flowchart 1**)

Covert Directed Surveillance

9. This is surveillance that is:-
 - Covert;
 - Not intrusive;
 - For the purposes of a specific investigation or operation;
 - Likely to obtain private information* about a person (whether or not that person was the target of the investigation or operation); and
 - Not carried out as an immediate response to events or circumstances which could not have been foreseen prior to the surveillance taking place.

* Private information includes any information relating to a person's private and family life including professional and business relationships, home and correspondence (whether at home, in a public place or in the work place).

10. Typically, local authorities may use Directed Surveillance when investigating benefit fraud, trading standards offences or serious environmental crime or antisocial behaviour. This may involve covertly filming or following an individual or monitoring their activity in other ways.

11. To help in deciding whether surveillance is Directed Surveillance please refer to **Flowchart 2**

12. Key points to note in relation to Directed Surveillance:-

- General observations do not constitute Directed Surveillance. The Covert Surveillance Code (para 3.33) states:

"The general observation duties of many law enforcement officers and other public authorities do not require authorisation under the 2000 Act, whether covert or overt. Such general observation duties frequently form part of the legislative functions of public authorities, as opposed to the pre-planned surveillance of a specific person or group of people."

- Surveillance is only Directed if it is covert. RIPA section 26(9)(a) states:

"Surveillance is covert if, and only if, it is carried out in a manner that is calculated to ensure that persons who are subject to the surveillance are unaware that it is or may be taking place;"

13. Where covert Surveillance needs to be done in an emergency and without time to authorise the activity (or where no Authorising Officer is immediately available) the surveillance can still be done. It will not constitute Directed Surveillance. The Covert Surveillance Code (para 3.32) states:

“Covert surveillance that is likely to reveal private information about a person but is carried out by way of an immediate response to events such that it is not reasonably practicable to obtain an authorisation under the 2000 Act, would not require a directed surveillance authorisation. The 2000 Act is not intended to prevent law enforcement officers fulfilling their legislative functions. To this end section 26(2)(c) of the 2000 Act provides that surveillance is not directed surveillance when it is carried out by way of an immediate response to events or circumstances the nature of which is such that it is not reasonably practicable for an authorisation to be sought for the carrying out of the surveillance.”

Directed Surveillance and Social Media

14. The use of the internet may be required to gather information prior to and/or during an investigation, which may amount to Directed Surveillance. Although information that individuals make publicly available on the internet would not normally be classed as ‘private information’.

15. The revised Code of Practice for Covert Surveillance and Property Interference clarifies the position on the use of social media for surveillance and states at paras 3.10 to 3.17

“3.10 The growth of the internet, and the extent of the information that is now available online, presents new opportunities for public authorities to view or gather information which may assist them in preventing or detecting crime or carrying out other statutory functions, as well as in understanding and engaging with the public they serve. It is important that public authorities are able to make full and lawful use of this information for their statutory purposes. Much of it can be accessed without the need for RIPA authorisation; use of the internet prior to an investigation should not normally engage privacy considerations. But if the study of an individual’s online presence becomes persistent, or where material obtained from any check is to be extracted and recorded and may engage privacy considerations, RIPA authorisations may need to be considered. The following guidance is intended to assist public authorities in identifying when such authorisations may be appropriate.

3.11 The internet may be used for intelligence gathering and/or as a surveillance tool. Where online monitoring or investigation is conducted covertly for the purpose of a specific investigation or operation and is likely to result in the obtaining of private information about a person or group, an authorisation for directed surveillance should be considered, as set out elsewhere in this code. Where a person acting on behalf of a public authority is intending to engage with others online without disclosing his or her identity, a CHIS authorisation may be needed (paragraphs 4.10 to 4.16 of the Covert Human

Intelligence Sources code of practice provide detail on where a CHIS authorisation may be available for online activity).

3.12 In deciding whether online surveillance should be regarded as covert, consideration should be given to the likelihood of the subject(s) knowing that the surveillance is or may be taking place. Use of the internet itself may be considered as adopting a surveillance technique calculated to ensure that the subject is unaware of it, even if no further steps are taken to conceal the activity. Conversely, where a public authority has taken reasonable steps to inform the public or particular individuals that the surveillance is or may be taking place, the activity may be regarded as overt and a directed surveillance authorisation will not normally be available.

3.13 As set out in paragraph 3.14 below, depending on the nature of the online platform, there may be a reduced expectation of privacy where information relating to a person or group of people is made openly available within the public domain, however in some circumstances privacy implications still apply. This is because the intention when making such information available was not for it to be used for a covert purpose such as investigative activity. This is regardless of whether a user of a website or social media platform has sought to protect such information by restricting its access by activating privacy settings.

3.14 Where information about an individual is placed on a publicly accessible database, for example the telephone directory or Companies House, which is commonly used and known to be accessible to all, they are unlikely to have any reasonable expectation of privacy over the monitoring by public authorities of that information. Individuals who post information on social media networks and other websites whose purpose is to communicate messages to a wide audience are also less likely to hold a reasonable expectation of privacy in relation to that information.

3.15 Whether a public authority interferes with a person's private life includes a consideration of the nature of the public authority's activity in relation to that information. Simple reconnaissance of such sites (i.e. preliminary examination with a view to establishing whether the site or its contents are of interest) is unlikely to interfere with a person's reasonably held expectation of privacy and therefore is not likely to require a directed surveillance authorisation. But where a public authority is systematically collecting and recording information about a particular person or group, a directed surveillance authorisation should be considered. These considerations apply regardless of when the information was shared online. See also paragraph 3.6.

3.16 In order to determine whether a directed surveillance authorisation should be sought for accessing information on a website as part of a covert investigation or operation, it is necessary to look at the intended purpose and scope of the online activity it is proposed to undertake. Factors that should be considered in establishing whether a directed surveillance authorisation is required include:

- 1 *Whether the investigation or research is directed towards an individual or organisation;*
- 2 *Whether it is likely to result in obtaining private information about a person or group of people (taking account of the guidance at paragraph 3.6 above);*
- 3 *Whether it is likely to involve visiting internet sites to build up an intelligence picture or profile;*
- 4 *Whether the information obtained will be recorded and retained;*
- 5 *Whether the information is likely to provide an observer with a pattern of lifestyle;*
- 6 *Whether the information is being combined with other sources of information or intelligence, which amounts to information relating to a person's private life;*
- 7 *Whether the investigation or research is part of an ongoing piece of work involving repeated viewing of the subject(s);*
- 8 *Whether it is likely to involve identifying and recording information about third parties, such as friends and family members of the subject of interest, or information posted by third parties, that may include private information and therefore constitute collateral intrusion into the privacy of these third parties.*

3.17 *Internet searches carried out by a third party on behalf of a public authority, or with the use of a search tool, may still require a directed surveillance authorisation (see paragraph 4.32)."*

16. The Council does not ordinarily permit the use of false personas to obtain information.
17. Officers should not make repeated visits to the same open source social media site as part of an investigation without first speaking with the SRO or Legal Services to ensure their actions are lawful.

CCTV

18. The installation and use of unconcealed CCTV cameras for the purpose of generally observing activity in a particular area is not surveillance requiring RIPA authorisation. There are specific provisions relating the use of CCTV cameras in public places and buildings. However, if CCTV cameras are being used in such a way that the definition of covert directed surveillance is satisfied, RIPA authorisation should be obtained.
19. For example the use of town centre CCTV systems to identify those responsible for a criminal act immediately after it happens will not require RIPA authorisation. However, the use of the same CCTV system to conduct planned surveillance of an individual and record their movements is likely to require authorisation.
20. Protocols should be agreed with any external agencies requesting the use of the Council's CCTV system. The protocols should ensure that the Council is satisfied that authorisations have been validly granted prior to agreeing that the CCTV system may be used for directed surveillance.

21. CCTV systems cannot be used without prior production of an authorisation and such authorisations must be retained.

SECTION 3 - COVERT HUMAN INTELLIGENCE SOURCE (CHIS)

1. A CHIS is somebody who is concealing or misrepresenting their true identity or purpose in order to covertly gather or provide access to information from the target. Examples of a CHIS include a private investigator pretending to live on a housing estate to gather evidence of drug dealing or an informant who gives information to Trading Standards about illegal business practices in a factory or shop.
2. To help in deciding whether surveillance involves a CHIS please refer to **Flowchart 3**
3. Key points to note in relation to CHIS'
 - A public volunteer is not a CHIS. The CHIS code (para 2.21) states:

"In many cases involving human sources, the source will not have established or maintained a relationship for a covert purpose. Many sources provide information that they have observed or acquired other than through a relationship. This means that the source is not a CHIS for the purposes of the 2000 Act and no authorisation is required."
 - Merely giving a complainant a diary sheet to note comings and goings will not make that person a CHIS. There must be covert use of the relationship to provide access to, or to disclose information covertly for someone to be a CHIS. Other authorisations under RIPA, for example, a directed surveillance authorisation, may need to be considered where the activity is likely to result in the public authority obtaining information relating to a person's private or family life.
 - A test purchaser may not always require authorisation . A test purchaser is not considered to be a CHIS when the interaction is strictly transactional with no intention to establish or maintain a relationship with the vendor. If the test purchaser is tasked to make multiple visits, build a rapport, and develop a relationship (e.g., to be trusted by a shopkeeper to buy age-restricted goods from the back room), they are acting as a CHIS.
4. The safety and welfare of the CHIS is paramount. Risk assessments should be carried out to determine the risk of tasking a CHIS and the activities being undertaken by the particular person appointed. The risk assessments should be regularly reviewed during the course of the investigation.

CHIS' and Social Media

5. The revised Code of Practice for Covert Human Intelligence Sources at paras 4.29 to 4.35 sets out the position on the use of social media in a potential CHIS context:

“4.29 Any member of a public authority, or person acting on their behalf, who conducts activity on the internet in such a way that they may interact with others in circumstances where the other parties could not reasonably be expected to know their true identity, should consider whether the activity requires a CHIS authorisation. This applies whether the interaction involves publicly open websites such as an online news and social networking service, or more private exchanges such as messaging sites. Where the activity is likely to result in obtaining private information but does not amount to establishing or maintaining a CHIS relationship, consideration should be given to the need for a directed surveillance authorisation.

4.30 Where someone, such as an employee or member of the public, is tasked by a public authority to use an internet profile to establish or maintain a relationship with a subject of interest for a covert purpose, or otherwise undertakes such activity on behalf of the public authority, in order to obtain or provide access to information, a CHIS authorisation is likely to be required. For example:

- *an investigator using the internet to engage with a subject of interest at the start of an operation, in order to ascertain information or facilitate a meeting in person;*
- *directing a member of the public to use their own or another internet profile to establish or maintain a relationship with a subject of interest for a covert purpose;*
- *joining chat rooms with a view to interacting with a criminal group in order to obtain information about their criminal activities.*

4.31 A CHIS authorisation will not always be appropriate or necessary for online investigation or research. Some websites require a user to register providing personal identifiers (such as name and phone number) before access to the site will be permitted. Where a member of a public authority sets up a false identity for this purpose, this does not in itself amount to establishing a relationship, and a CHIS authorisation would not immediately be required. However, consideration should be given to the need for a directed surveillance authorisation if the conduct is likely to result in the acquisition of private information, and the other relevant criteria are met.

4.32 Where a website or social media account requires a minimal level of interaction, such as sending or receiving a friend request before access is permitted, this may not in itself amount to establishing a relationship. Equally, the use of electronic gestures such as “like” or “follow” to react to information posted by others online would not in itself constitute forming a relationship. However, it should be borne in mind that entering a website or responding on these terms may lead to further interaction with other users and a CHIS authorisation should be obtained if there is an intention to engage in such interaction to obtain, provide access to or disclose information.

4.33 When engaging in conduct as a CHIS, a member of a public authority should not adopt the identity of a person known, or likely to be known, to the subject of interest or users of the site without considering the need for a CHIS authorisation. Full consideration should be given to the potential risks posed by that activity.

4.34 Where use of the internet is part of the tasking of a CHIS, the risk assessment carried out in accordance with paragraphs 7.15 to 7.21 of this Code should include consideration of the risks arising from that online activity including factors such as the length of time spent online and the material to which the CHIS may be exposed. This should also take account of any disparity between the technical skills of the CHIS and those of the handler or Authorising Officer, and the extent to which this may impact on the effectiveness of oversight.

4.35 Where it is intended that more than one person will share the same online persona, each individual should be clearly identifiable within the overarching authorisation for that operation. The authorisation should provide clear information about the conduct required of – and the risk assessments in relation to – each individual involved. (See also paragraphs 3.32 to 3.36)."

SECTION 4 - AUTHORISATION PROCEDURES

Completing the forms

1. Once it is decided what type of surveillance is being undertaken, the appropriate forms must be completed and sent to the Authorising Officer for approval.
2. The forms can be found on the Home Office Website [RIPA forms - GOV.UK \(www.gov.uk\)](http://RIPA%20forms%20-%20GOV.UK%20(www.gov.uk)). A guide to completing the forms can be found at **Appendix I** (Since the introduction of the POFA local authorities no longer have the power to make urgent oral authorisations - all authorisations, even if urgent, must be made in writing and the relevant judicial approval must be sought.)
3. **Officers contemplating the use of RIPA should first seek the advice of the Monitoring Officer**

Authorising Officers

4. The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 (SI 2010 N0.521) states that the Authorising Officer for a local authority can be a Director, Head of Service, Service Manager or equivalent. A list of the Council's Authorising Officers is held by the SRO. All authorising officers will be nominated by their Directorates, as being of sufficient rank and having undertaken appropriate RIPA training. Once the SRO is satisfied that this is the case they will be added to the list of Authorising officers, held by the SRO.

5. Authorised Officers are responsible for assessing and authorising covert directed surveillance and the use of CHIS'.
6. It is the responsibility of Authorising Officers to ensure that when applying for authorisation the principles of necessity and proportionality (see Section 5, paragraph 8) are adequately considered and evidenced; and that reviews and cancellations of authorisations are carried out as required under this Policy (see Section 5, paragraphs 5.4 – 5.12).
7. Authorising officers are responsible for ensuring that they have received RIPA training prior to authorising RIPA activity. When applying for or authorising RIPA activity under the Policy, officers must also take into account the corporate training and any other guidance issued from time to time by the Monitoring Officer.

Authorising Directed Surveillance

8. Section 28 of RIPA states:

“1)Subject to the following provisions of this Part, the persons designated for the purposes of this section shall each have power to grant authorisations for the carrying out of directed surveillance.

(2)A person shall not grant an authorisation for the carrying out of directed surveillance unless he believes—

- (a)that the authorisation is necessary on grounds falling within subsection (3); and*
- (b)that the authorised surveillance is proportionate to what is sought to be achieved by carrying it out.*

(3)An authorisation is necessary on grounds falling within this subsection if it is necessary—

- (a)in the interests of national security;*
- (b)for the purpose of preventing or detecting crime or of preventing disorder;*
- (c)in the interests of the economic well-being of the United Kingdom;*
- (d)in the interests of public safety;*
- (e)for the purpose of protecting public health;*
- (f)for the purpose of assessing or collecting any tax, duty, levy or other imposition, contribution or charge payable to a government department; or*
- (g)for any purpose (not falling within paragraphs (a) to (f)) which is specified for the purposes of this subsection by an order made by the Secretary of State.*

(4)The conduct that is authorised by an authorisation for the carrying out of directed surveillance is any conduct that—

- a)consists in the carrying out of directed surveillance of any such description as is specified in the authorisation; and*

(b)is carried out in the circumstances described in the authorisation and for the purposes of the investigation or operation specified or described in the authorisation.

9. To help in deciding whether Directed Surveillance should be authorised please refer to **Flowchart 4**
10. Authorising Officers are referred to **Appendix II** which offers Guidance on things to consider when deciding whether to authorise Directed Surveillance.

Authorising the use of a CHIS

11. Section 29 of RIPA states:

“(1)Subject to the following provisions of this Part, the persons designated for the purposes of this section shall each have power to grant authorisations for the conduct or the use of a covert human intelligence source.

(2)A person shall not grant an authorisation for the conduct or the use of a covert human intelligence source unless he believes—

- (a)that the authorisation is necessary on grounds falling within subsection (3);*
- (b)that the authorised conduct or use is proportionate to what is sought to be achieved by that conduct or use; and*
- (c)that arrangements exist for the source's case that satisfy—*
 - (i)the requirements of subsection (4A), in the case of a source of a relevant collaborative unit;*
 - (ii).....*
 - (iii)the requirements of subsection (5), in the case of any other source;*

and that satisfy such other requirements as may be imposed by order made by the Secretary of State.

(2A)For the meaning of “relevant collaborative unit” in subsection (2)(c)(i), see section 29A.

(3)An authorisation is necessary on grounds falling within this subsection if it is necessary—

- (a)in the interests of national security;*
- (b)for the purpose of preventing or detecting crime or of preventing disorder;*
- (c)in the interests of the economic well-being of the United Kingdom;*
- (d)in the interests of public safety;*
- (e)for the purpose of protecting public health;*
- (f)for the purpose of assessing or collecting any tax, duty, levy or other imposition, contribution or charge payable to a government department; or*
- (g)for any purpose (not falling within paragraphs (a) to (f)) which is specified for the purposes of this subsection by an order made by the Secretary of State.*

(4) The conduct that is authorised by an authorisation for the conduct or the use of a covert human intelligence source is any conduct that—

(a) is comprised in any such activities involving conduct of a covert human intelligence source, or the use of a covert human intelligence source, as are specified or described in the authorisation;

(b) consists in conduct by or in relation to the person who is so specified or described as the person to whose actions as a covert human intelligence source the authorisation relates; and

(c) is carried out for the purposes of, or in connection with, the investigation or operation so specified or described.

(4A) For the purposes of this Part there are arrangements for the source's case that satisfy the requirements of this subsection if such arrangements are in force as are necessary for ensuring—

(a) that there will at all times be a qualifying person who will have day-to-day responsibility for dealing with the source, and for the source's security and welfare (see section 29A for the meaning of "qualifying person") ;

(b) that there will at all times be another qualifying person who will have general oversight of the use made of the source;

(c) that there will at all times be a qualifying person who will have responsibility for maintaining a record of the use made of the source;

(d) that the records relating to the source that are maintained by virtue of paragraph (c) will always contain particulars of all such matters (if any) as may be specified for the purposes of this paragraph in regulations made by the Secretary of State; and

(e) that records maintained by virtue of paragraph (c) that disclose the identity of the source will not be available to persons except to the extent that there is a need for access to them to be made available to those persons.

(4B)

(5) For the purposes of this Part there are arrangements for the source's case that satisfy the requirements of this subsection if such arrangements are in force as are necessary for ensuring—

(a) that there will at all times be a person holding an office, rank or position with the relevant investigating authority who will have day-to-day responsibility for dealing with the source on behalf of that authority, and for the source's security and welfare;

(b) that there will at all times be another person holding an office, rank or position with the relevant investigating authority who will have general oversight of the use made of the source;

(c) that there will at all times be a person holding an office, rank or position with the relevant investigating authority who will have responsibility for maintaining a record of the use made of the source;

(d) that the records relating to the source that are maintained by the relevant investigating authority will always contain particulars of all such matters (if any) as may be specified for the purposes of this paragraph in regulations made by the Secretary of State; and

(e) that records maintained by the relevant investigating authority that disclose the identity of the source will not be available to persons except to

the extent that there is a need for access to them to be made available to those persons.

(6) The Secretary of State shall not make an order under subsection (3)(g) unless a draft of the order has been laid before Parliament and approved by a resolution of each House.

(6ZA) An authorisation for the conduct or the use of a covert human intelligence source does not authorise any criminal conduct in the course of, or otherwise in connection with, the conduct of a covert human intelligence source (but see section 29B for provision for the authorisation of such conduct).

(6A) An authorisation under this section may not have the effect of authorising a covert human intelligence source who is a person designated under section 38 of the Police Reform Act 2002 to establish contact in person with another person.

(7) The Secretary of State may by order—

(a) prohibit the authorisation under this section of any such conduct or uses of covert human intelligence sources as may be described in the order; and

(b) impose requirements, in addition to those provided for by subsection (2), that must be satisfied before an authorisation is granted under this section for any such conduct or uses of covert human intelligence sources as may be so described.

(7A).

(7B).

(8) In this section “relevant investigating authority”, in relation to an authorisation for the conduct or the use of an individual as a covert human intelligence source, means (subject to subsection (9)) the public authority for whose benefit the activities of that individual as such a source are to take place.

(9) In the case of any authorisation for the conduct or the use of a covert human intelligence source whose activities are to be for the benefit of more than one public authority, the references in subsection (5) to the relevant investigating authority are references to one of them (whether or not the same one in the case of each reference).

11. To help in deciding whether use of a CHIS should be authorised please refer to **Flowchart 5**
12. Authorising Officers are referred to **Appendix III** which offers Guidance on things to consider when deciding whether to authorise use of a CHIS.

Next stage after Authorisation

1. Once the Directed Surveillance and / or use of a CHIS has been authorised by an Authorised Officer the stage is to seek approval from the Magistrates Court

SECTION 5 - MAGISTRATES APPROVAL

General

1. The POFA came into force in November 2012. The POFA changed the procedure for the authorisation of local authority surveillance under RIPA.
2. Local authorities are required to obtain the approval of a JP for the use of Directed Surveillance and CHIS.
3. Guidance can be found on the Home Office website providing advice on how local authorities can ensure they are following the correct processes and changes in the legislation [Changes to local authority use of RIPA - GOV.UK \(www.gov.uk\)](http://www.gov.uk/government/publications/changes-to-local-authority-use-of-ripa)

Process

4. Once (internally) authorisation has been given / signed by an Authorised Officer, Legal Services will need to make contact with the court listing office and arrange a hearing date and time.
5. The officer who has sought the authorisation will need to attend court, accompanied by Legal Services. The officer will be sworn in, and expected to give evidence under oath.
6. The court will be provided (by Legal Services) with a copy of all the relevant forms and authorisations relevant to the application.
7. The hearing will be in private, and heard by a single JP who will consider the forms and authorisation etc. Since the introduction of the POFA it is no longer sufficient for the local authority to rely on oral evidence – the authorisation and forms must be sufficient by themselves to make the case for approval. The JP can though ask questions of the officer for clarification or for additional reassurances.
8. The JP will decide whether they are satisfied that, at the time the authorisation was granted or renewed, there were reasonable grounds for believing that the authorisation was necessary and proportionate. They will consider whether there continue to be reasonable grounds. The JP must also be satisfied that the Authorising Officer was of an appropriate level within the Council's structure and that the authorisation was made in accordance with any applicable legal restrictions.
9. JP's may decide to:

- Approve the grant/renewal of the authorisation (the Council can then proceed to use the surveillance technique mentioned therein)
- Refuse to approve the grant/renewal of the authorisation on a technicality (the RIPA authorisation won't take effect and the local authority cannot use the surveillance technique. Technical errors can be rectified without the need to recommence the authorisation process again, then the authority can reapply to the court)
- Refuse to grant/renew and quash the authorisation (the RIPA authorisation won't take effect and the local authority cannot use that surveillance technique. The JP cannot exercise their power to quash an authorisation unless the local authority has been given 2 working days in which to prepare and make further representations).

10. The JP will then complete the Order section of the judicial application/order form. One copy will need to be retained by the Council – this signed documents is the approval.

11. A local authority can only appeal a JPs decision to refuse approval of an authorisation on a point of law by seeking a Judicial Review in the High Court.

Time Limits

12. If the JP approves the authorisation, the authorisation will last:

- For 3 months if the authorisation is for Directed Surveillance, and
- For 12 months if the authorisation is for a CHIS

PART 2 – COMMUNICATIONS DATA

SECTION 6 - ACQUISITION AND DISCLOSURE OF COMMUNICATIONS DATA

1. With effect from 5 February 2019, and in accordance with Part 3 and chapter 2 of Part 6 of the IPA Local Authorities can obtain communications data ('Data') provided that the acquisition of such Data is necessary for the applicable crime purpose; and proportionate to what is sought to be achieved by acquiring it
2. The applicable crime purpose will depend upon whether the communications data being sought is classified as entity data or events data. Where the Data sought is wholly or partly events data the purpose must be for a serious crime. In any other case the Data must be for the purpose of preventing or detecting crime or of preventing disorder.

"Serious crime" means crime where-

- the offence, or one of the offences, which is or would be constituted by the conduct concerned is an offence for which a person who has reached the age

of 18 and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of 1 year or more, or

- the conduct involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose

3. The Communications data Code of Practice can be accessed here: <https://www.gov.uk/government/publications/code-of-practice-for-the-acquisition-and-disclosure-of-communications-data>

Important: The Council is NOT Permitted to Intercept any Communications

4. The purpose and effect of the procedure is the same as RIPA i.e. to ensure proper consideration is given to permitting such investigations and to provide protection against a human rights challenge.
5. Applications for Data are subject to independent examination, scrutiny and approval by the ICO. All applications for Data must be undertaken online through NAFN acting as single point of contact SPOC pursuant to the IPA.

What is ‘Communications Data’?

1. The term Communications Data (‘Data’) includes the “who”, “where”, and “how” of a communication but not the content i.e. what was said or written. Data is generated, held or obtained in the provision, delivery and maintenance of communications services i.e. postal services or telecommunications services.
2. The Council may only acquire less intrusive types of Data. These are:
 - Entity Data – this data describes or identifies the entity. Entities can be individuals and objects (such as mobile phones).
 - Events Data – for Data this is limited to communications events which identifies any person, apparatus or location to or from which a communication is transmitted e.g. incoming call records, the location of a mobile phone, or numbers called
3. Data relating to Events data is more intrusive than data relating to Entities Data

SECTION 7 – AUTHORISATIONS

4. The Monitoring Officer shall be appointed as the Council’s SRO. The SRO is responsible for
 - the integrity of the process in place within the public authority to acquire communications data;
 - engagement with authorising officers in the Office for Communications Data Authorisations (where relevant);

- compliance with Part 3 of IPA and with the code, including responsibility for novel or contentious cases;
- oversight of the reporting of errors to the IPCO and the identification of both the cause(s) of errors and the implementation of processes to minimise repetition of errors;
- ensuring the overall quality of applications submitted to IPCO by the public authority;
- engagement with the IPCO's inspectors when they conduct their inspections; and
- where necessary, oversight of the implementation of post-inspection action plans approved by the IPCO.

Application Forms

5. The Council will maintain a collaboration agreement with the National Anti-Fraud Network (NAFN). All applications must be made online at <https://www.nafn.gov.uk/> NAFN will act as SPOC between both the communications service providers (CSPs) and the Council concerning the request and provision of Data. This is to ensure a centralised and managed approach in making applications to obtain Data and facilitates lawful acquisition of Data and effective co-operation between the Council and CSPs.
6. In addition to being considered by a NAFN SPOC, the applicant for Data must ensure that the Council's SRO is aware of the application being made before it is submitted to an authorising officer in IPCO. The Council's SRO's will be notified to NAFN.

Duration

7. Authorisations to obtain Data are only valid for one month beginning with the date on which the IPCO approval is granted

Renewal and Cancellation

8. An authorisation may be renewed at any time during the month it is valid using the same procedure as used in the original application (including seeking IPCO approval). A renewal takes effect on the date which the authorisation it is renewing expires.
9. The code requires that all authorisations must be cancelled by the Council or IPCO as soon as it is no longer necessary, or the conduct is no longer proportionate to what is sought to be achieved.
10. The Council must notify the SPOC which must cease the authorised conduct.

Retention of Records

11. Applications, authorisations and notices must be retained until the Council has been audited by the Commissioner. Applications must also be retained to allow the Tribunal (see paragraph 14 and 15 below) to carry out its functions.

12. A record must be kept of:

- the dates of which the authorisation or notice is started or cancelled;
- any errors that have occurred in the granting of authorisations or giving of notices.

13. A report and explanation of any errors must also be sent to the Commissioner as soon as is practicable. Communications data, and all copies, extracts and summaries of it, must be handled and stored securely and the requirements of the GDPR must be observed. The Monitoring Officer will maintain a centrally retrievable register.

Oversight and Complaints

14. The IPA provides for an IPCO whose remit is to provide independent oversight of the use of the powers contained within the IPA and the code requires any person who uses the powers conferred by the IPA to comply with any request made by the Commissioner to provide any information he requires to enable him to discharge his functions.

15. The IPCO must inform any affected person of any rights that the person may have to apply to the Investigatory Powers Tribunal.

Standards Committee Work Programme 2025/26

Date of Committee	
12/05/2025	<ul style="list-style-type: none"> ▪ Review of Constitution (TBD) ▪ Annual Report of the Standards Committee 2024/25 ▪ Proposed Amendment to the Scheme of Delegation for Officers ▪ Members Training Attendance 2024/25
28/07/2025	<ul style="list-style-type: none"> ▪ Review of Constitution (TBD) ▪ RIPA Policy Review ▪ LGSCO Annual Letter and Report ▪ Complaints update
10/11/2025	<ul style="list-style-type: none"> ▪ Review of Constitution (TBD) ▪ Compliments Comments and Complaints Annual Summary ▪ Complaints update
09/02/2026	<ul style="list-style-type: none"> ▪ Review of Constitution (TBD) ▪ Gifts and Hospitality Annual Report ▪ Whistleblowing Policy Annual Report ▪ Regulation of Investigatory Powers Act 2000 Annual Report ▪ Complaints update ▪ Work Programme
11/05/2026	<ul style="list-style-type: none"> ▪ Review of Constitution (TBD) ▪ Compliments Comments and Complaints Annual Summary ▪ Proposed Amendment to the Scheme of Delegation for Officers ▪ Member Training Attendance 2025/26 ▪ Annual Report of the Standards Committee 2025/26 ▪ Complaints Update ▪ Work Programme