



Telford & Wrekin
C O U N C I L

Addenbrooke House Ironmasters Way Telford TF3 4NT

STANDARDS COMMITTEE

Date **Tuesday, 31 October 2017** Time **6.00pm**
Venue **Meeting Room G3/G4, Addenbrooke House, Ironmasters Way,
Telford, TF3 4NT**

Enquiries Regarding this Agenda:

Democratic Services	Jayne Clarke	01952 383205
Media Enquiries	Corporate Communications	01952 382407
Lead Officer	Jonathan Eatough, Assistant Director: Governance, Procurement & Commissioning	01952 383200

Committee Membership: Councillors **E A Clare (Chair), M J Smith (Vice Chair),**
J C Ashford, S Barnes, A R H England, R T Kiernan and
G C W Reynolds.

AGENDA

- 1. Apologies for Absence**
- 2. Declarations of Interest**
- 3. Minutes** Appendix **A**
To confirm the minutes of the meeting of the Standards Committee held on 25th April 2017.
- 4. Review of the Terms of Reference / Update Report** Appendix **B**
The report of the Assistant Director: Governance, Procurement & Commissioning
- 5. Review of Department for Communities and Local Government Consultation on Updating Disqualification Criteria for Local Authority Members** Appendix **C**
The report of the Assistant Director: Governance, Procurement & Commissioning

STANDARDS COMMITTEE**Minutes of a meeting of the Standards Committee held on
Tuesday, 25 April 2017 at 6pm in Meeting Room G3-G4, Addenbrooke House,
Ironmasters Way, Telford, TF3 4NT**

Present: Councillors K S Sahota (Chair), M J Smith (Vice Chair), S Barnes, N A M England and R T Kiernan.

In Attendance: S Dodd (Democratic & Legal Services Manager and Deputy Monitoring Officer), J Eatough (Assistant Director: Governance, Procurement & Commissioning and Monitoring Officer).

Also in Attendance: Councillor A J Eade

ST-14 Apologies for Absence

Councillors R J Sloan and M J Smith.

ST-15 Declarations of Interest

None

ST-16 Minutes

RESOLVED – that the minutes of the meeting of the Standards Committee held on 5 July 2016 be confirmed and signed by the Chairman.

The Chair introduced S Dodd who had taken up the role of Democratic & Legal Services Manager and Deputy Monitoring Officer.

**ST-17 STANDARDS UPDATE FROM THE MONITORING OFFICER AND
REVIEW OF THE TERMS OF REFERENCE**

The Committee received the report presented by the Monitoring Officer. The report provided an update on work undertaken in relation to the ethical framework, including register of disclosable pecuniary interests, complaints received, training and the introduction of a social medial protocol.

Register of Interests

The Monitoring Officer reported that it was a statutory requirement to establish and maintain a register of interests for members and co-opted members of the Council, together with a similar register for all Parish and Town Councils within the Borough. All Borough Council forms were complete and up-do-date, but despite a number of reminders there were still a number of Parish and Town Council forms which were outstanding. The Monitoring Officer proposed that he would write to all Parish and Town Councils to remind them to complete and submit these forms.

Following a brief discussion and upon being put to the vote it was, unanimously:-

RESOLVED that the Monitoring Officer write to Parish and Town Council Clerks to ask them to check their records and update information as required.

Complaints

The Monitoring Officer reported on the complaints received since the last meeting. Complaints received regarding social media would be considered in the next Report on the Agenda.

Training

Following a request for training, the former Deputy Monitoring Officer had provided Code of Conduct training to Parish Councillors, Clerks and Officers in September 2016.

During the debate, some Members suggested that training be targeted at new Councillors and that training could be given upon their induction to elected and co-opted members as well as Parish/Town Councillors and that good working relationships were developed with Clerks. It was suggested that rather than running a training session that an Ollie training package be developed which would be free and accessible to all Members of the Borough and Parish/Town Councils.

The Monitoring Officer confirmed that training was given to Members following an election, that some relationships with Parish/Town Councils were better than others and that the responsibility lay with the Clerks to sign up to the register of interests.

RESOLVED – that a free and accessible training programme for new Councillors, Co-opted Members and Parish and Town Councillors be developed on “Ollie”.

ST-18 REVIEW OF PROTOCOL FOR THE USE OF SOCIAL MEDIA

The Chair introduced the report and asked Members for constructive ideas on the development of the Social Media Protocol.

The Monitoring Officer reported that the protocol was formerly published last year and had been developed by Members for Members and was a useful document. Due to a number of complaints received, which had been detailed in the Monitoring Officer's Update Report earlier in the meeting, it was proposed that it might be sensible to further review the protocol.

Legal Services Manager informed Members that she had met with the Independent Person and the Monitoring Officer to discuss the policy and it was suggested that a two hour training session be given to all Borough Members and Parish and Town Councils in order for them to fully understand the Policy and its implications. The training would be built around real case examples relating to facebook and twitter,

the issues around commenting and re-tweeting public posts and using privacy settings.

A discussion took place and Members considered that there were growing problems with the use of social media and the interpretation of comments and concerns were raised as to the amount of officer time taken to deal with the complaints, bullying, the impact on the reputation of the Council and the tweeting of false statements. Members felt that the policy could be more robust and it was suggested that zero tolerance policy be put in place together with sanctions. With regards to training, although Members felt that this was essential, face to face training courses were not well attended. A suggestion came forward that an "Ollie" Training Programme could be developed which would be free and available to all Members together with Parish and Town Councils.

The Monitoring Officers suggested to Members that the Policy be reviewed and a second page be added showing specific examples of where things had gone wrong. The Policy, once approved, could go out to Group Leaders for endorsement.

The Legal Services Manager confirmed that an interactive training package through Ollie would be developed.

Following the discussions it was:

RESOLVED – that the contents of the report be noted.

The meeting ended at 7.01 pm

Chairman:

Date:

TELFORD & WREKIN COUNCIL

STANDARDS COMMITTEE – 31 OCTOBER 2017

REVIEW OF TERMS OF REFERENCE/ UPDATE REPORT

REPORT OF THE ASSISTANT DIRECTOR: GOVERNANCE, PROCUREMENT & COMMISSIONING

PART A) – SUMMARY REPORT

1. SUMMARY OF MAIN PROPOSALS

- 1.1 To update the Standards Committee on matters relating to the ethical framework since the last Standards Committee meeting, and to review and agree the terms of reference of the committee.

2. RECOMMENDATION

2.1 That the Committee review and agree the existing terms of reference as suitable and appropriate;

2.2 That the committee note the contents of the report and provide further direction to the Monitoring Officer in relation to any further work that the Committee considers appropriate to promote good governance and the ethical framework.

3. SUMMARY IMPACT ASSESSMENT

COMMUNITY IMPACT	Do these proposals contribute to specific Priority Plan objective(s)?	
	Yes	The Committee is part of the Council's decision making framework and therefore contributes to all of the Council's priorities.
	Will the proposals impact on specific groups of people?	
	No	
TARGET COMPLETION/DELIVERY DATE	None	
FINANCIAL/VALUE FOR MONEY IMPACT	No	The recommendations of this report will not have any financial implications
LEGAL ISSUES	Yes	This report meets the statutory requirements relating to the Code of Conduct and ethical framework. The record of complaints reflects the formal written record of complaints received by the Monitoring Officer and, in accordance with the process are not closed unless and until they are discussed with the Council's Independent Person. It is a criminal offence for a member to fail to complete the register of disclosable pecuniary interests within

		the defined time-frame.
OTHER IMPACTS, RISKS & OPPORTUNITIES	No	There are no other specific impacts arising from this report.
IMPACT ON SPECIFIC WARDS	No	

PART B) – ADDITIONAL INFORMATION

4. INFORMATION

4.1 To provide an update to the Committee on work undertaken in relation to the ethical framework and particularly issues relating to complaints received and training.

Training

4.2 As a result of on-going concerns officers organised and procured the services of Paul Hoey, from Hoey-Ainscough Associates to provide training on the positive use and benefits of social media and also to discuss what happens when the use of social media goes wrong.

4.3 At the training on the 11 September 2017 Mr Hoey outlined the opportunities for positive use of social media as a local representative but also gave real examples of where the poor use of social media has resulted in complaints and action by the local Standards Committee. The session was attended by 11 Councillors.

4.4 The Monitoring Officer has also been invited to attend and give refresher/ update training on Standards to Wellington Town Council, this is planned to take place on the 12 December 2017 and will cover the code of conduct, social media and the management of meetings.

4.5 The development of an “Ollie” training programme on Standards remains is still to be developed. Officers will report on progress to the next meeting of this committee.

The Register of Interests

4.6 As agreed at the last meeting of this committee continuing efforts have been made to ensure that all register of interests are completed/ up to date. As usual there has been some coming and going of Parish and Town Councillors so it is a task that is never complete. However, a reminder will be circulated to all members of the Borough Council and to Clerks of Town and parish Councils in December to consider and determine whether or not they need to up-date their register entries.

Complaints

4.7 Since the last update report to this meeting in April 2017 the Monitoring Officer has received 5 complaints, 2 relating to Parish Councillors and 3 relating to Borough Councillors, summarised details are as follows:

Ref.	Date	Council	Referral	Details	Current status
12	Mar 17	T&W	No	Allegations made against Councillor in course of Council duties	Closed May 2017

13	May 17	T&W	No	Allegations against Councillor in personal life	Closed June 2017
14	Jun 17	Parish Council	No	Allegations about behaviour	Closed September 2017
15	Jun 17	T&W	No	Comments on social media	Closed July 2017
16	Sept 17	Parish Council	Not yet determined	Allegations made against Councillor in course of Council duties	On-going

- 4.8 Picking themes out of the complaints remains challenging with the exception, previously of complaints around the specific use of social media. However, one area that has resulted in some feedback to the Monitoring Officer is how the Code regulates how members treat each other: It is the nature of local issues and politics that Councillors can have different, often polarised views. The vast majority of these views are debated and aired in professional and respectful atmosphere. Sometimes passions/ personalities can lead to more extreme language and/ or attacks that are perceived as being, or are, personal attacks.
- 4.9 The Monitoring Officer has locally taken the view that in all but the most extreme cases member/ member relations is a matter for the self-regulation of that particular Council to reflect the culture that members of that Council want to see when fulfilling their democratic mandate. There is a balance between the acceptance that Councillors often have different views on important issues affecting their community and their responsibility to represent those views as forcefully as they believe is appropriate and the importance of mutual respect and separating debating issues from debating individuals.
- 4.10 Other issues that are also material include the proportionality of referrals for relatively minor incidents that might or might not be seen to breach the code where effective informal solutions have been reached and avoid the cost of investigations, be it officer time or the cost of professional investigators as may be required from time to time.
- 4.11 It is also important to balance the impact upon the effectiveness of the Council during such formal procedures and the often, very long lasting damage that it can do to the Council's reputation, member: member and member: officer relations which are not either be in the public interest or conducive to the effective delivery of services.
- 4.12 Whilst this remains a Monitoring Officer discretion members' views are sought on the current approach.

Social Media Protocol

- 4.13 As members can see the number of complaints regarding the use of social media have gone down since complaints were last reported in April 2017.

Terms of reference

- 4.14 The existing terms of reference are attached at Appendix 1 to this report. There are no suggested amendments from officers

5. PREVIOUS MINUTES

5.1 Standards Committee – 20 January 2015, 7 July 2015, 9 February 2016, 5 July 2016, 25 April 2017.

6. **BACKGROUND PAPERS**

6.1 None

Report prepared by Jonathan Eatough, Monitoring Officer – Governance, Procurement & Commissioning 01952 383 200

Standards Committee Terms of Reference, Functions, Powers and Duties (including the Hearings Sub Committee)

The Committee has the responsibility and delegated powers to act on behalf of the Council in dealing with the oversight of the Council's ethical governance and decide on the following matters.

TERMS OF REFERENCE

STANDARDS COMMITTEE

1. To promote and maintain high standards of conduct by members and co-opted members of the Council.
2. To support Town and Parish Councils within the Borough to promote and maintain high standards of conduct by members and co-opted members of the Council.
3. To recommend to Council the adoption of a code dealing with the conduct that is expected of members and co-opted members of the Authority.
4. To keep the [code of conduct](#) under review and recommend changes/ replacement to Council as appropriate.
5. To publicise the adoption, revision or replacement of the Council's [Code of Conduct](#).
6. To oversee the process for the recruitment of an Independent Person (and up to 2 reserves) and make recommendations to Council for their appointment.
7. To receive reports from the Monitoring Officer about:-
 - 7.1 complaints;
 - 7.2 the progress and outcome of investigations; and
 - 7.3 the establishment and maintenance of the register of interests of members and co-opted members of the Borough and Town and Parish Councils within the Borough boundaries;
- 7.4 dispensations granted to members and co-opted members of the Council.

HEARINGS SUB COMMITTEE

1. To consider investigation reports in respect of [Code of Conduct](#) complaints that are referred to it by the [Monitoring Officer](#).
To report its findings to the Borough Council, Town of Parish Council, as appropriate for information.
2. Where a breach is found to make decisions about sanctions including:-
 - 2.1. To make recommendations to the relevant Group Leader regarding future membership of committees and sub committees;
 - 2.2. To make recommendations to Council regarding the removal of a nonaligned member from membership of committee and sub-committees;
 - 2.3. To make recommendations to the Leader of the Council regarding the removal of a member from Cabinet, or the removal of portfolio responsibilities;
 - 2.4. To instruct the [Monitoring Officer](#) to arrange training for a Borough Council member;
 - 2.5. To remove a member from all outside appointments to which he/ she has been appointed or nominated by the Council; and

2.6. To withdraw facilities provided to the member or exclude the member from defined premises (except as necessary for the member to attend formally constituted council meetings).

3. To consider applications for dispensations where:-

3.1. The dispensation is in the interests of persons living in the Borough of

Telford & Wrekin area; or

3.2. It is otherwise appropriate to grant a dispensation.

Note – The Standards Committee have delegated the following powers and functions to the [Monitoring Officer](#)

- 1 The power to receive and make an initial assessment of formal Code of Conduct complaints made to the Standards Committee and decide whether further action or investigation is required.
- 2 The power to make arrangements for local settlement of complaints where the Monitoring Officer considers it appropriate including arranging mediation if required.
- 3 The power to consider and grant dispensations to Members where:
 - i. The number of Members precluded from transacting the business is so great that it would impede the business of the Council, committee or Executive
 - ii. The political balance is affected to the extent that it could affect the outcome of a vote relating to the business

PROCEDURE

The Committee will be conducted in accordance with the Council's [Committee Procedure Rules](#). NOTE - Separate procedures will apply when the committee is undertaking administrative or quasi-judicial functions, as below:-

COMPLAINING ABOUT A COUNCILLOR

All Councillors, whether a Borough, Town or Parish Councillor have to comply with a code of conduct that details what is expected of them when they carry out their role as a Councillor.

This document explains how to make a complaint about a Councillor if you think that they might have breached a code of conduct that applies to them and also how the complaint is dealt with.

The Code of Conduct

Telford & Wrekin Council has adopted a [code of conduct](#) that applies to all members and co-opted members of the Council. You can get a copy by following this link http://www.telford.gov.uk/info/20242/councillors_mps_and_meps/358/councillor_code_of_conduct or by contacting the Monitoring Officer whose contact details are provided below.

All Town and Parish Councils have their own code of conduct which you can obtain from their individual web-sites or, if there isn't one, by contacting the Clerk directly. If you are not sure which Council a Councillor belongs to then you can obtain help and support from the Monitoring Officer.

Can I be confident that my complaint will be properly dealt with?

The law requires the Council to appoint an Independent Person: a person who has nothing to do with the Council other than in this role who is consulted at various stages during the

complaints process and whose role is to ensure that all complaints are dealt with fairly, a role that can also include giving views to the Councillor who is the subject of the complaint.

Making a Complaint

Write to the Monitoring Officer, Addenbrooke House, Ironmasters Way, Telford, TF3 4NT or alternatively by e-mail at monitoring.officer@telford.gov.uk

The Monitoring Officer is the person responsible for administering this complaints system. There is a form for you to use <https://webforms.telford.gov.uk/form/189> but you do not need to use it as long as you include all the information that is included on the form.

What happens next?

The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it.

The Monitoring Officer will review your complaint, discuss it with the Independent Person and write to you to inform you whether or not he/she has decided to refer it for investigation. Normally this will be within 14 working days of receiving your complaint. The

Monitoring Officer might ask for more information, he/ she might also ask for information from the Councillor who you are complaining about or the Council that the Councillor is a member of.

The Monitoring Officer might seek to resolve the complaint informally, i.e. before deciding to refer your complaint for investigation. Obviously your views are important here but if the Monitoring Officer believes that the proposed solution is reasonable, for example acceptance that behaviour was unacceptable and an offered apology, this might affect the decision of the Monitoring Officer about whether or not the complaint merits formal investigation.

Investigations

If referring for formal investigation the Monitoring Officer will appoint an Investigating Officer who will contact you and the Councillor that you have complained about and undertake any other such investigations as he/she considers appropriate for the purposes of the investigation. In exceptional cases your identity will be protected for some or all of the investigation. If you consider that it would be appropriate to do this in your case you must let the Monitoring Officer know when you make your complaint. (This would generally only be done where providing your details might prejudice the investigation).

The Investigation Officer will publish a draft report for consideration by you and the Councillor that you have complained. Once any comments have been considered by the Investigating Officer a Final Report will be produced and sent to the Monitoring Officer. The Final Report will then be considered by the Monitoring Officer who may either accept the report or ask the investigating Officer to re-consider his/ her report.

Investigation finding of No Breach

The Monitoring Officer will write to you and the Councillor who you have complained about enclosing a copy of the Final Report and confirming that no further action is required. If it is a complaint about a Town or Parish Councillor then a copy will also be sent to the Clerk of the relevant Town or Parish Council.

Investigation finding of Breach

The Monitoring Officer will write to you and the Councillor who you have complained about enclosing a copy of the Final Report and will either seek local resolution or will convene a hearing of the Council's Hearings Committee.

Local Resolution

If the Monitoring Officer, the Independent Person and you all agree a fair resolution of the complaint in a way that promotes high standards of conduct and the Councillor complies with the suggested resolution then the Monitoring Officer will report the matter to the Standards Committee for information but will take no further action.

Hearing

If local resolution is not possible then the Monitoring Officer will convene a meeting of the Council's Hearings Sub Committee for it to consider the Investigating Officer's Report and the views of the Independent Person on the allegation and determine whether or not there has been a breach of the Council's Code of Conduct and if so what action, if any, to take in respect of the Councillor.

Hearing Procedure

A copy of the Hearings Procedure is set out below:-

Pre Hearing

1. Notification of hearing date (Investigation Report already provided to the Councillor)
2. Invitation to Councillor to submit list of further documents/ witnesses that he/she wishes to call
3. Circulation of papers

Hearing

4. Introductions
5. Chair explains the process to be followed
6. Investigating Officer present his/ her report (and may ask witnesses to attend if necessary)
7. Panel may ask questions
8. Councillor or his/ her representative may ask questions
9. Councillor or his/ her representative presents his/ her case (and may as witnesses to attend if necessary)

Decision – no breach

10. The complaint is dismissed.

Decision - breach

11. After offering the Councillor complained about an opportunity to speak.

TELFORD & WREKIN COUNCIL**STANDARDS COMMITTEE – 31 OCTOBER 2017****REVIEW OF DEPARTMENT FOR COMMUNITIES AND LOCAL GOVERNMENT
CONSULTATION ON UPDATING DISQUALIFICATION CRITERIA FOR LOCAL
AUTHORITY MEMBERS****REPORT OF THE ASSISTANT DIRECTOR: GOVERNANCE, PROCUREMENT &
COMMISSIONING****PART A) – SUMMARY REPORT****1. SUMMARY OF MAIN PROPOSALS**

For the Standards Committee to be informed on the Department for Communities and Local Government consultation on updating disqualification criteria for local authority members attached at Appendix 1.

2. RECOMMENDATION

- 2.1** That the Standards Committee consider the proposals in the consultation paper (appended at Appendix) and decide whether it wants to make a response. If the Standard Committee wants to make a response they shall agree the substance of a response to be made to DCLG and asks the Monitoring Officer to send a written response in accordance with the Committee's decision.

3. SUMMARY IMPACT ASSESSMENT

COMMUNITY IMPACT	Do these proposals contribute to specific Priority Plan objective(s)?	
	Yes	The Committee is part of the Council's decision making framework and therefore contributes to all of the Council's priorities.
	Will the proposals impact on specific groups of people?	
	No	
TARGET COMPLETION/DELIVERY DATE	The consultation closes at 5pm on Friday 8 December 2017.	
FINANCIAL/VALUE FOR MONEY IMPACT	No	Adopting the recommendations of this report will not have any financial implications
LEGAL ISSUES	Yes	The consultation proposes updating the disqualification criteria in section 80 of the Local Government Act 1072, paragraph 9 of schedule 5B to the Local Democracy, Economic Development and Construction Act 2009, and section 21 of the Greater London Authority Act 1999 to prohibit those subject to

		the notification requirements (commonly referred to as 'being on the sex offenders register') and those subject to certain anti-social behaviour sanctions from being local authority members, London Assembly members or directly-elected mayors.
OTHER IMPACTS, RISKS & OPPORTUNITIES	No	There are no other specific impacts arising from this report.
IMPACT ON SPECIFIC WARDS	No	

PART B) – ADDITIONAL INFORMATION

4. INFORMATION

- 4.1 On the 18 September 2017 the Department for Communities and Local Government published a consultation on the government's proposals for disqualifying individuals from being elected, or holding office as a local authority member, directly-elected mayor, or member of the London Assembly.
- 4.2 The consultation document sets out the plans to strengthen rules to prevent anyone found guilty of serious crimes from serving on local councils.
- 4.3 Currently, individuals cannot stand for, or hold, office as a local authority member, London Assembly member or directly-elected mayor if they have, within the previous five years or since their election, been convicted of an offence that carries a prison sentence of at least three months without a fine and whether suspended or not.
- 4.4 The government is proposing to amend the disqualification criteria so that anyone convicted of a serious crime, regardless of whether it comes with a custodial sentence, will not be able to serve as a councillor.
- 4.5 The changes, if implemented, will apply to councillors and mayors in parish, town, local, county and unitary councils, combined authorities and the Greater London Authority.
- 4.6 It would mean a ban on standing to be elected or if once elected a councillor was subsequently convicted of a serious offence, would be forced to step down.
- 4.7 The proposals in the consultation would not apply retrospectively i.e. any incumbent local authority member, directly-elected mayor or member of the London Assembly, who is on the sex offences register or subject to a Civil Injunction or Criminal Behaviour Order at the time the changes come into force will not be affected. However such individuals would be prevented from standing for re-election after the changes came into force.

4.8 The government seeks views on its proposals to update the disqualifying criteria in section 80 of the Local Government Act 1972, so that individuals are disqualified if they are subject to:

- The notification requirements set out in the sexual Offences Act 2003 (commonly referred to as “being on the sex offenders register”).
- A civil injunction granted under section 1 of the Anti-social Behaviour, Crime and Policing Act 2014 (ABCPA).
 - Civil injunctions are civil in nature and are available in the County Court or High Court. They are intended to tackle low-level anti-social behaviour. Civil injunctions replace drinking banned orders, individual support orders and intervention orders.
- A criminal behaviour order (CBOs) made under section 22 of the ABCPA 2014.
 - CBO’s are intended to tackle more serious anti-social behaviour and can be used post-conviction. CBOs can be applied for by the prosecution on conviction for any criminal offence in a criminal court.

4.9 The consultation closes at 5pm on 8 December 2017, and responses can be submitted online at: Section80consultation@communities.gsi.gov.uk

5. Monitoring Officer Comments

5.1 The proposals set out in this consultation document are to be welcomed as strengthening local government’s ethical agenda and ensuring that individuals wishing to hold elected office are of good character. This may be seen as particularly relevant given the limited powers of a local authority to impose sanctions (such as suspension) on members in breach of the Member Code of Conduct.

5.2 The proposed additional disqualification criteria are, in the Monitoring Officer’s view, proportionate to reflect new options which exist to protect the public and address unlawful and unacceptable behaviour.

5.3 The Monitoring Officer is of the view in relation to Question 1 (Page 12 of the consultation paper) is Yes

Q1. Do you agree that an individual who is subject to the notification requirements set out in the Sexual Offences Act 2003 (i.e. who is on the sex offenders register) should be prohibited from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor?

5.4 The Monitoring Officer is of the view in relation to Question 2 (Page 12 of the consultation paper) is No

Q2. Do you agree that an individual who is subject to a Sexual Risk Order should not be prohibited from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor?

5.5 The Monitoring Officer is of the view in relation to Question 3 (Page 14 of the consultation

paper) is Yes

Q3. Do you agree that an individual who has been issued with a Civil Injunction (made under section 1 of the Anti-social Behaviour, Crime and Policing Act 2014) or a Criminal Behaviour Order (made under section 22 of the Anti-social Behaviour, Crime and Policing Act 2014) should be prohibited from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor?

5.6 The Monitoring Officer is of the view in relation to Question 4 (Page 14 of the consultation paper) is Yes

Do you agree that being subject to a Civil Injunction or a Criminal Behaviour Order should be the only anti-social behaviour-related reasons why an individual should be prohibited from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor?

6. BACKGROUND PAPERS

Department for Communities and Local Government consultation on updating disqualification criteria for local authority members

***Report prepared by Suzanne Dodd, Service Delivery Manager – Governance & Legal
01952 380014***

Appendix 1



Department for
Communities and
Local Government

Disqualification criteria for Councillors and Mayors

Consultation on updating disqualification criteria for local
authority members



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September 2017

ISBN: 978-1-4098-5102-8

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Scope of the consultation

A consultation paper issued by the Department for Communities and Local Government on behalf of the Secretary of State

Topic of this consultation:	This consultation paper sets out the government's proposals for updating the criteria disqualifying individuals from standing for, or holding office as, a local authority member, directly-elected mayor or member of the London Assembly.
Scope of this consultation:	<p>The Department for Communities and Local Government is consulting on proposals to update the criteria disqualifying individuals from standing for, or holding office as, a local authority member, directly-elected mayor or member of the London Assembly, if they are subject to:</p> <ul style="list-style-type: none">• the notification requirements set out in the Sexual Offences Act 2003 (commonly referred to as 'being on the sex offenders register');• a civil injunction granted under section 1 of the Anti-social Behaviour, Crime and Policing Act 2014; or• a Criminal Behaviour Order made under section 22 of the Anti-social Behaviour, Crime and Policing Act 2014. <p>Any changes to the disqualification criteria would require changes to primary legislation, in particular the Local Government Act 1972, the Local Democracy, Economic Development and Construction Act 2009, and the Greater London Authority Act 1999.</p> <p>The proposed changes would not act retrospectively.</p>
Geographical scope:	The proposals in this consultation paper apply to certain authorities in England, including local authorities, combined authorities and the Greater London Authority. They do <u>not</u> apply to authorities in Wales, Scotland or Northern Ireland.
Impact Assessment:	No impact assessment has been produced for this consultation.

Basic Information

To:	This consultation is open to everyone. We particularly seek the views of individual members of the public, prospective and current councillors and those bodies that represent the interests of local authorities and councillors at all levels.
Body responsible for the consultation:	The Local Government Stewardship Division in the Department for Communities and Local Government is responsible for conducting the consultation.
Duration:	The consultation will begin on Monday 18 September 2017. The consultation will run for 12 weeks and will close on Friday 8 December 2017. All responses should be received by no later than 5pm on Friday 8 December 2017.
Enquiries:	<p>If you have any enquiries, please contact:</p> <p>Stuart Young email: stuart.young@communities.gsi.gov.uk</p> <p>DCLG Tel: 0303 44 40000</p> <p>How to respond:</p> <p>Please respond by email to: Section80consultation@communities.gsi.gov.uk</p> <p>Alternatively, please send postal responses to:</p> <p>Stuart Young Department for Communities and Local Government 2nd Floor, NE, Fry Building 2 Marsham Street London SW1P 4DF</p> <p>Responses should be received by 5pm on Friday 8 December 2017.</p>
How to respond:	<p>You can respond by email or by post.</p> <p>When responding, please make it clear which questions you are responding to.</p> <p>When you reply it would be very useful if you could confirm whether you are replying as an individual or submitting an</p>

	<p>official response on behalf of an organisation, and include:</p> <ul style="list-style-type: none">- your name- your position (if applicable)- the name and address of your organisation (if applicable)- an address, and- an email address (if you have one)
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Introduction

1. Local authority members (i.e. councillors), mayors of combined authorities, members of the Greater London Assembly and the London Mayor take strategic decisions that affect all our lives. They decide how best to use taxpayers' money and manage local authority resources, including property, land and assets. They also have a leading role to play in building and preserving a society where the rights and freedoms of individuals are respected. They should be community champions. It is vital, therefore, that they have the trust of the electorate.
2. The Government considers that there should be consequences where councillors, mayors and London Assembly members fall short of the behaviour expected of anyone in a free, inclusive and tolerant society that respects individuals and society generally, and where this has led to enforcement action against an individual.
3. Existing legislation prevents individuals standing, or holding office, as a local authority member, London Assembly member or directly-elected mayor if they have, within five years of the day of the election, or since their election, been convicted in the UK, Channel Islands or Isle of Man of any offence and have received a sentence of imprisonment, suspended or not, for a period of not less than three months without the option of a fine.
4. The Government considers that the law should be updated to reflect new options which exist to protect the public and address unlawful and unacceptable behaviour.
5. This consultation proposes updating the disqualification criteria in section 80 of the Local Government Act 1972, paragraph 9 of schedule 5B to the Local Democracy, Economic Development and Construction Act 2009, and section 21 of the Greater London Authority Act 1999 to prohibit those subject to the notification requirements (commonly referred to as 'being on the sex offenders register') and those subject to certain anti-social behaviour sanctions from being local authority members, London Assembly members or directly-elected mayors.
6. This consultation does not propose changing the disqualification criteria for Police and Crime Commissioners (PCCs). For the purposes of this consultation, 'local authority member' also extends to directly-elected mayors and co-opted members of authorities, and 'local authority' means:
 - a county council
 - a district council
 - a London Borough council
 - a parish council

The disqualification criteria in section 80 of the Local Government Act 1972, paragraph 9 of schedule 5B to the Local Democracy, Economic Development and Construction Act 2009, and section 21 of the Greater London Authority Act 1999 do not cover the Council of the Isles of Scilly or the Common Council of the City of

London. Therefore, the proposals in this consultation do not extend to these councils.

The Current Disqualification Criteria

7. Under section 80 of the Local Government Act 1972, a person is disqualified from standing as a candidate or being a member of a local authority, if they:
 - are employed by the local authority;
 - are employed by a company which is under the control of the local authority;
 - are subject to bankruptcy orders;
 - have, within 5 years before being elected, or at any time since being elected, been convicted in the UK, Channel Islands or Isle of Man of any offence and have received a sentence of imprisonment (suspended or not) for a period of not less than three months without the option of a fine;
 - are disqualified under Part III of the Representation of the People Act 1983;
 - are employed under the direction of various local authority committees, boards or the Greater London Authority; or
 - are a teacher in a school maintained by the local authority.

8. Paragraph 9 of schedule 5B to the Local Democracy, Economic Development and Construction Act 2009 sets out the criteria on disqualification from standing as, or being, a directly-elected mayor of a combined authority. A person is disqualified from being elected or holding office as the mayor of a combined authority if they:
 - hold any paid office or employment (other than the office of mayor or deputy mayor), including any appointments or elections made by or on behalf of the combined authority or any of the constituent councils of the combined authority;
 - are subject to bankruptcy orders;
 - have, within 5 years before being elected, or at any time since being elected, been convicted in the UK, Channel Islands or Isle of Man of any offence and have received a sentence of imprisonment (suspended or not) for a period of not less than three months without the option of a fine; or
 - is disqualified for being elected or for being a member of a constituent council under Part 3 of the Representation of the People Act 1983.

9. Section 21 of the Greater London Authority Act 1999 disqualifies someone from being the Mayor or an Assembly member if they:
 - are a member of staff of the Authority;
 - hold an office that disqualifies the holder from being Mayor or an Assembly member;
 - are subject to bankruptcy orders are bankrupt or have made a composition agreement with creditors;
 - have, within 5 years before being elected, or at any time since being elected, been convicted in the UK, Channel Islands or Isle of Man of any offence and have received a sentence of imprisonment (suspended or not) for a period of not less than three months without the option of a fine;
 - are disqualified under section 85A or Part III of the Representation of the People Act 1983 from being the Mayor or an Assembly member; or

- are a paid officer of a London borough council who is employed under the direction of:
 - a council committee or sub-committee whose membership includes the Mayor or someone appointed on the nomination of the Authority;
 - a joint committee whose membership includes a member appointed on the nomination of the council and a member appointed on the nomination of the Authority;
 - the council executive, or one of its committees, whose membership includes the Mayor or someone appointed on the nomination of the Authority;
 - a member of the council's executive who is the Mayor or someone appointed on the nomination of the Authority.

Sexual Offences

10. The Government considers that anyone who is subject to sex offender notification requirements, commonly referred to as 'being on the sex offenders register', should be barred from standing for election, or holding office, as a local authority member, directly-elected mayor or member of the London Assembly. The period of time for which they would be barred would end once they were no longer subject to these notification requirements.

11. An individual can become subject to notification requirements by committing certain criminal acts or being issued with certain types of civil order:

- Being subject to sex offender notification requirements is an automatic consequence of being cautioned or convicted of a sexual offence listed in Schedule 3 of the Sexual Offences Act 2003 (see: <http://www.legislation.gov.uk/ukpga/2003/42/schedule/3>).
- Sexual Harm Prevention Orders are civil orders intended to protect the public from offenders convicted of a sexual or violent offence who pose a risk of sexual harm to the public by placing restrictions on their behaviour. Offenders who are subject to Sexual Harm Prevention Orders become subject to notification requirements.
- Notification Orders are civil orders intended to protect the public in the UK from the risks posed by sex offenders who have been convicted, cautioned, warned or reprimanded for sexual offences committed overseas. Such offenders may be British or foreign nationals convicted, cautioned etc. abroad of a relevant offence. Offenders who are subject to Notification Orders become subject to notification requirements.

12. The duration of the notification requirement period (i.e. how long a person is on the sex offenders register) is set out in the Sexual Offences Act 2003 and in the table below. The courts have no discretion over this.

Where the (adult) offender is:	The notification period is:
Sentenced to imprisonment for life or to a term of 30 months or more	An indefinite period
Detained in a hospital subject to a restriction order	An indefinite period
Sentenced to imprisonment for more than 6 months but less than 30 months imprisonment	10 years
Sentenced to imprisonment for 6 months or less	7 years
Detained in a hospital without being subject to a restriction order	7 years
Cautioned	2 years

Conditional discharge	The period of the conditional discharge
Any other description (i.e. community sentence, fine)	5 years

These periods are halved for offenders who are under 18 on the date of the caution, conviction or finding, as defined within the 2003 Act.

13. Offenders who are subject to the notification requirements must notify the police of (amongst other things) their: name, date of birth, national insurance number, home address, passport number, bank account and credit card details. They must do this annually, any time the details change or when they travel abroad. They must also notify the police when they stay or reside with a child for more than 12 hours.
14. Further information on the Sexual Offences Act 2003 can be found at: <https://www.gov.uk/government/publications/guidance-on-part-2-of-the-sexual-offences-act-2003>.
15. The Government does not propose including another type of civil order, the Sexual Risk Order, as this person would not have been convicted or cautioned of a sexual offence under the Sexual Offences Act 2003 and are not subject to notification requirements for registered sex offenders. A Sexual Risk Order does require the individual to notify to the police their name and their home address. A Sexual Risk Order can be sought by the police against an individual who has not been convicted, cautioned etc. of an offence under Schedule 3 or Schedule 5 of the 2003 Act but who is nevertheless thought to pose a risk of harm to the public in the UK and/or children or vulnerable adults abroad.

Q1. Do you agree that an individual who is subject to the notification requirements set out in the Sexual Offences Act 2003 (i.e. who is on the sex offenders register) should be prohibited from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor?

Q2. Do you agree that an individual who is subject to a Sexual Risk Order should not be prohibited from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor?

Anti-Social Behaviour

16. Anti-social behaviour blights people's lives and can leave victims feeling powerless. These are a range of powers to the courts, police and local authorities to tackle the problems in the table below.

17. The Government considers that an individual who is subject to an anti-social behaviour sanction that has been issued by the court, i.e. a Civil Injunction or a Criminal Behaviour Order, should be barred from standing for election, or holding office, as a local authority member, directly-elected mayor or member of the London Assembly. The period of time for which they would be barred would end once they were no longer subject to the injunction or Order.

Anti-Social Behaviour (ASB) Powers

Type	Power	Description
Issued by the court to deal with individuals	Civil Injunction	A civil order with a civil burden of proof. The injunction can include both prohibitions and positive requirements to tackle the underlying causes of the behaviour. Applications can be made by police, councils, social landlords, Transport for London, Environment Agency, Natural Resources Wales and NHS Protect.
	Criminal Behaviour Order	A court order available on conviction. The order can be issued by any criminal court against a person who has been convicted of an offence. It is aimed at tackling the most persistently anti-social individuals who are also engaged in criminal activity. The order can include both prohibitions and positive requirements. Applications are made by the prosecution, in most cases by the Crown Prosecution Service, either at its own initiative or following a request from the police or council.
Used by the police to move problem groups or individuals on	Dispersal Power	A flexible power which the police can use in a range of situations to disperse anti-social individuals and provide immediate short-term respite to a local community. It allows the police to deal instantly with someone's behaviour and prevent it escalating. The use of the power must be authorised by an officer of at least inspector rank, to be used in a specific locality for up to 48 hours or on a case by case basis. This is to ensure that the power is used fairly and proportionately and only in circumstances in which it is necessary.

Issued by councils, the police and social landlords to deal with problem places	Community Protection Notice	A notice designed to deal with particular problems which negatively affect the community's quality of life. The Notice can be issued to anyone aged 16 or over, businesses or organisations. This is a two-stage power and a written warning has to be issued first. Failure to stop the behaviour or take action to rectify the problem would lead to the notice being issued. The power can be used by councils, police and social landlords (if designated by the council).
	Public Spaces Protection Order	Designed to deal with anti-social behaviour in a public place and apply restrictions to how that public space can be used to stop or prevent anti-social behaviour. The order is issued by the council. Before the order can be made, the council must consult with the police and whatever community representatives they think appropriate, including regular users of the public space. Before the order is made the council must also publish the draft order.
	Closure Power	A fast and flexible two-stage power. Can be used to quickly close premises which are being used, or likely to be used, to commit nuisance or disorder, including residential, business and licensed premises. The police and councils are able to issue Closure Notices for up to 48 hours and the courts are able to issue Closure Orders for up to six months if satisfied that the legal tests have been met. Following the issue of a Closure Notice, an application must be made to the magistrates' court for a closure order.

Q3. Do you agree that an individual who has been issued with a Civil Injunction (made under section 1 of the Anti-social Behaviour, Crime and Policing Act 2014) or a Criminal Behaviour Order (made under section 22 of the Anti-social Behaviour, Crime and Policing Act 2014) should be prohibited from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor?

Q4. Do you agree that being subject to a Civil Injunction or a Criminal Behaviour Order should be the only anti-social behaviour-related reasons why an individual should be prohibited from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor?

Retrospection

18. Legislation does not generally apply retrospectively, the principle being that the law should operate in a clear and certain manner and the public is entitled to know the state of the law at a particular time.
19. The proposals in this consultation would not apply retrospectively, i.e. any incumbent local authority member, directly-elected mayor or member of the London Assembly, who is on the sex offenders register or subject to a Civil Injunction or Criminal Behaviour Order at the time the changes come into force would not be affected.
20. Such individuals would of course be prevented from standing for re-election after the changes came into force.

Questions

Q1. Do you agree that an individual who is subject to the notification requirements set out in the Sexual Offences Act 2003 (i.e. is on the sex offenders register) should be prohibited from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor?

Q2. Do you agree that an individual who is subject to a Sexual Risk Order should not be prohibited from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or the London Mayor?

Q3. Do you agree that an individual who has been issued with a Civil Injunction (made under section 1 of the Anti-social Behaviour, Crime and Policing Act 2014) or a Criminal Behaviour Order (made under section 22 of the Anti-social Behaviour, Crime and Policing Act 2014) should be prohibited from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor?

Q4. Do you agree that being subject to a Civil Injunction or a Criminal Behaviour Order should be the only anti-social behaviour-related reasons why an individual should be prohibited from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor?

Q5. Do you consider that the proposals set out in this consultation paper will have an effect on local authorities discharging their Public Sector Equality Duties under the Equality Act 2010?

Q6. Do you have any further views about the proposals set out in this consultation paper?

About this consultation

This consultation document and consultation process have been planned to adhere to the Consultation Principles issued by the Cabinet Office.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department for Communities and Local Government will process your personal data in accordance with DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed the Consultation Principles? If not or you have any other observations about how we can improve the process please contact us via the [complaints procedure](#).