



Standards and Constitutional Oversight Committee

Date:	Monday, 20 November 2017
Time:	4.00 pm
Venue:	Committee Room 3 - Wallasey Town Hall

Contact Officer: Patrick Sebastian
Tel: 0151 691 8559
e-mail: patricksebastian@wirral.gov.uk
Website: <http://www.wirral.gov.uk>

AGENDA

1. **APOLOGIES FOR ABSENCE**
2. **DECLARATIONS OF INTEREST**
3. **MINUTES** (Pages 1 - 28)

To approve the accuracy of the minutes of the following meetings:

- Standards and Constitutional Oversight Committee, 13 June 2017;
- Standards and Constitutional Oversight Committee (meeting as Trustees of the Callister Youth Club), 29 June 2017;
- Standards and Constitutional Oversight Working Group, 29 June 2017;
- Standards and Constitutional Oversight Sub-Committee (Trustees of the Callister Youth Club Interviews), 21 September 2017; and
- Special meeting of the Standards and Constitutional Oversight Committee (outcome of complaint against a Councillor), 31 October 2017.

4. **APPOINTMENT OF INDEPENDENT PERSONS** (Pages 29 - 34)
5. **SUMMARY OF STANDARDS COMPLAINTS 2016/17**
(Pages 35 - 42)

6. DISQUALIFICATION CRITERIA FOR COUNCILLORS AND MAYORS - CONSULTATION (Pages 43 - 68)

Members are asked to consider the attached consultation paper issued by the Department for Communities and Local Government on behalf of the Secretary of State. The 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.

7. WORK PROGRAMME

At the last meeting of the Standards and Constitutional Oversight Committee Working Group, Members agreed a number of items for inclusion on the Committee's Work Programme for 2017/18. The suggested topics are:

- Council's Code of Conduct, Member Sanctions and Investigation Timescales;
- Social Media Policy;
- Member/Officer Protocol
- Disclosure and Barring Service - Councillors; and
- Filming Of Public Meetings – Protocol

Additional item – complaint from Councillor Phil Davies re Call-Ins

The Standards and Constitutional Oversight Committee is asked to consider if any further items be recommended for inclusion in this year's Work Programme.

STANDARDS AND CONSTITUTIONAL OVERSIGHT COMMITTEE

Tuesday, 13 June 2017

Present: Councillor M McLaughlin (Chair)

Councillors P Stuart B Kenny
C Blakeley E Boulton (In place of J Hale)
WJ Davies C Meaden (In place of RL
G Ellis Abbey)
P Gilchrist

Independent Member: Prof RS Jones

1 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors R Abbey, J Hale and Independent Member Mr Brian Cummings.

The Chair informed the Committee that Mr Cummings was unable to attend due to ill health and that he had also decided to step down from his duties as an independent member of the Committee.

The Chair advised Members that she was sorry to hear of Mr Cummings' decision as he was a much valued member of the Committee. She would be writing to Mr Cummings to wish him well for the future, and to thank him for his contributions and services to the Committee over the years.

2 MEMBERS' CODE OF CONDUCT

Members were asked to consider whether they had any disclosable pecuniary interests and/or any other relevant interest in connection with any item(s) on this agenda and, if so, to declare them and state the nature of the interest.

No such declarations were made.

3 ORDER OF BUSINESS

The Chair proposed and it was agreed that the meeting's order of business be varied and that item 6 on the agenda (Local Government Ombudsman's Report – Specialist Home to School Transport in Wirral) be considered after item 3 (Minutes).

4 **MINUTES**

Resolved – That the minutes of the meeting of the Committee held on 26 April 2017, be confirmed as a correct record.

5 **LOCAL GOVERNMENT OMBUDSMAN'S REPORT - SPECIALIST HOME TO SCHOOL TRANSPORT IN WIRRAL**

The Senior Manager Admissions and Place Planning introduced the report of the Local Government Ombudsman (LGO) on an investigation into complaints against the Council relating to the provision of Specialist Home to School Transport in the 2015-2016 academic year for some families whose children had special educational needs or disabilities (SEND).

The Committee noted that the Council's home to school travel policy set out eligibility criteria for free home to school travel for children and young people in Wirral, and that the policy in its current format came into force from September 2014 and that the 2017-2018 home to school transport policy was attached as an appendix to the report.

Members were apprised that the usual form of home to school travel provided (where young people are eligible under the policy) was through the provision of a free to user scholars travel pass for use on public transport. In relation to transport to special schools, bases and units for children with SEND, the form of transport provided may be through the provision of a specialist vehicle, e.g. a minibus, or via a free scholar's travel pass where the young person was able to utilise public transport.

In addition Members noted that where a home to school travel application for any young person had been refused or the applicant disagreed with the mode of transport provided, the applicant may follow the Council's two stage appeal process. The first stage was for the original decision to be considered by a Senior Officer. The second stage appeal was before a panel of Senior Officers. If applicants did not agree with the outcome of the Stage 2 appeal, they may then choose to make a complaint to the LGO.

The LGO report covered four applicants, A, B, C and D who had made complaints in relation to their child's transport arrangements in the 2015-2016 academic year. The report did not find that the home to school transport policy itself was at fault or that the decisions themselves were incorrect. However, the report identified several areas for action in relation to the appeal process and the Council's actions in relation to the four families involved. The Council had agreed to all of the recommendations, and the related actions as advised, to the Committee for consideration.

The Committee noted that letters of apology had been sent to all four families on 23 February 2017 along with cheques for the amount set out by the LGO.

The Committee further noted that Applicant C's vehicle transport had already been re-instated in May 2016. Applicants A, B and D had already been provided with new transport application forms prior to the LGO report and new decisions had been made in relation to A, B and D accordingly, as set out by the LGO. Any subsequent appeals resulting from these decisions would be dealt with under the improved appeal processes.

As agreed, transport application forms had also been sent to the four other non-complainant families, identified by the Council during the LGO's investigation. For information, one child in this group was now not eligible for specialist transport as they no longer attend an SEN base; and another was now travelling independently following successful travel training. One parent has returned the transport application form and this application was being processed accordingly. The other had not submitted an application, but if they choose to do so in future, this would be considered under the policy and improved procedures that were in place.

The Chair re-iterated the Council's previous apologies and expressed regret relating to the circumstances that had brought about the complaints and the distress caused to the families concerned. The Committee supported the actions taken by the Council to redress the errors that had occurred.

It was moved by the Chair, seconded by Councillor Chris Blakeley and:

Resolved - That

- (1) the Committee notes the content of the Ombudsman's report on the provision of Home to School Transport in relation to the application of the policy on a number of service users;**
- (2) the Committee also notes that the Council accept the findings in the report and is pleased to have been made aware that some of the recommendations have already been acted on, that it intends to implement all the recommendations in full, and hopes that all lessons that could be learned from this have been learnt; and**
- (3) the Committee expresses regret that people using the service have been treated in this matter in a way which caused them distress and also their need to resort to contacting the Ombudsman to achieve a satisfactory outcome.**

6 APPOINTMENT OF PANELS

A report by the The Assistant Director: Law and Governance and Monitoring Officer proposed that the Committee establish the Standards Panel and Standards Appeal Panel in accordance with the paragraph 9.5 of Article 9 of

the Council's Constitution and the Protocol for Dealing with Complaints against Members.

Appended to the report were the following appendices:

- Article 9 of the Council's Constitution;
- Members' Code of Conduct;
- Protocol for Dealing with Complaints against Members; and
- Procedure for dealing with matters before the Standards Panel and Standards Appeal Panel.

Resolved - That

- (1) a Standards Panel be formally established pursuant to paragraph 9.5 of Article 9 of the Council's Constitution;**
- (2) Membership of the Standards Panel comprise:**

Councillors M McLaughlin (Lab), C Blakeley (Con), P Gilchrist (Lib Dem) and Independent Member Prof RS Jones;

(Membership of the Standards Appeal Panel be deferred until such a time as appointments be necessary)
- (3) where a representative Member, confirmed under paragraph (2) above, is unavailable to attend a proposed meeting of the Standards Panel or Standards Appeal Panel but that meeting can be attended by all other persons required, then the relevant political group through their Group Leader/Deputy Group Leader or Party Spokesperson shall promptly confirm another representative member who is able to attend that meeting; and**
- (4) the proposed procedure for dealing with a matter before either the Standards Panel or Standards Appeal Panel set out at Appendix 4 to the report be agreed.**

7 ESTABLISHING THE STANDARDS AND CONSTITUTIONAL OVERSIGHT COMMITTEE WORKING GROUP

The Assistant Director: Law and Governance and Monitoring Officer presented a report to the Committee, which:

- (i) sought approval to establish the Standards and Constitutional Oversight Working Group for the current Municipal Year;
- (ii) provided details of the work undertaken by the Working Group during the last Municipal Year; and

(iii) subject to (i) proposed a Work Programme for the Working Group for the 2017/18 Municipal Year which included:

- Review of the Council's Constitution
- Review of the Members' Code of Conduct and Protocol
- Review of the Member/Officer Protocol
- Completion of the recruitment exercise for additional Independent Persons

The Terms of Reference for the Working Group were set out in an appendix to the report.

Resolved – That, this Committee -

- (1) agrees to establish a cross party Standards and Constitutional Oversight Working Group for the current Municipal Year;**
- (2) agrees the Terms of the Standards and Constitutional Oversight Working Group as set out at Appendix 1 to the report;**
- (3) Membership of the Working Group comprise:**
Councillors M McLaughlin (Lab), B Davies (Lab), P Stuart (Lab), C Blakeley (Con), G Ellis (Con), P Gilchrist (Lib Dem) and Independent Members; and
- (4) agrees to the Work Programme of the Working Group for the 2017/18 Municipal Year as set out in the report.**

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STANDARDS AND CONSTITUTIONAL OVERSIGHT COMMITTEE

Thursday, 29 June 2017

Present: Councillor M McLaughlin (Chair)

Councillors P Stuart P Gilchrist
C Blakeley B Kenny
G Ellis Jones

Independent Member Prof R Jones

8 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Ron Abbey, Bill Davies and John Hale.

9 DECLARATIONS OF INTEREST

Members were asked to consider whether they had any disclosable pecuniary interests and/or any other relevant interest in connection with any item(s) on this agenda and, if so, to declare them and state what they were.

Councillor Phil Gilchrist and Independent Member Professor Ron Jones declared a personal interest in relation to the item of business below by virtue of knowing one of the Trustee applicants.

10 CALLISTER YOUTH CLUB

Colin Hughes, Group Solicitor (Corporate) introduced the report of the Assistant Director: Law and Governance that updated the Committee on developments since its decision on 6 July 2016 to consider, after receiving further advice from the Charity Commission, the future use or disposal of Slatey Road; the appointment of new trustees of the Club; or the transfer of the properties to another suitable charity subject to any necessary consents from the Charity Commission.

The Group Solicitor informed that objections had been received to the proposal to change the objects of the Trust when advertised in the local press on 23 November 2016.

The Committee was requested to determine whether it should retire from the Trust and if so what steps should be taken to appoint replacement Trustees. Members noted that six residents of Birkenhead had offered to become

Trustees of the Trust in substitution for the Council (which had a potential conflict of interest as a result of its use of the Trust's premises in 19 Argyle Street, Birkenhead).

The Group Solicitor informed that the proposed transfer of Trustee responsibilities was required to avoid a continuation of the conflict of interest over the Council's occupation of the Trust's premises at 19 Argyle Street for the use of its Response Service. He further informed that the proposed payment of an annual sum of £14,000 to the Trust for the Council's use of 19 Argyle Street was based on the market rent estimated by independent valuers.

The Committee noted that the decision on the future use of Slatey Road involved a complex consideration of a number of relevant factors and therefore the Council should not tie the hands of future Trustees by making a decision now, and a decision on the change of the objects of the Trust should again be left to the new Trustees who would be responsible for running the Trust.

Members also noted that, although the six candidates for Trustees have completed questionnaires, the Charity Commission's general guidance, as confirmed with the Group Solicitor, was that applicants wishing to become Trustees should be interviewed by the existing Trustees prior to any decision on appointment being made in order to clarify any matters and ascertain whether there were any conflicts between the interests of the Trust and those of the applicant(s).

Members discussed the most practical method for candidate interviews, and agreed that a cross-party panel comprising 3 Elected Members be established for the purpose, and a suitable date for interviews in September be arranged i.e. after the summer holiday period.

Resolved -

RECOMMENDATIONS TO COUNCIL

- (1) that the transfer of Council's trusteeship of the Callister Youth Club to new Trustees, to avoid a continuation of its conflict of interest over 19 Argyle Street (Birkenhead) be agreed;**
- (2) that Council's decisions to pay into the bank account of the Trust an annual sum equal to the market rent for 19 Argyle Street (currently estimated to be £14,000) be reaffirmed;**
- (3) that Council note the valuation obtained for the Trust's premises in Slatey Road, Birkenhead but defers any decision on its future disposal or use pending the appointment of new Trustees; and**

- (4) that Council defers any decision on a change to the objects of the Trust pending the appointment of new Trustees.

The Standards and Constitutional Oversight Committee further:

Resolved – That

- (5) a Sub-Committee to interview the six applicants who have offered to become Trustees of the Callister Youth Club be established, comprising:

Cllr M McLaughlin (Labour)
Cllr C Blakeley (Conservative)
Cllr P Gilchrist (Liberal Democrat); and

- (6) if applicants be considered eligible and suitable, the sub-committee shall have the delegated powers to instruct the Assistant Director: Law and Governance to take the necessary steps to appoint all or any of them as Trustees in substitution for the Council; or
- (7) should the Sub-Committee resolve not to appoint any or all of the six applicants as Trustees it shall have the delegated authority to advertise in the local press and/or in any other appropriate way for candidates to be considered for the role of Trustees of the Callister Youth Club; and that such outcomes be reported back to this Committee.

11 **EXCLUSION OF THE PRESS AND PUBLIC**

The Standards and Constitutional Oversight Committee gave consideration to whether discussion on the exempt documentation relating to the financial affairs of the Callister Youth Club and information relating to individuals should be held in the presence or in the absence of the press and public. The Assistant Director informed that, in the light of the information contained in the appendices his advice was to consider the information in private session. He also advised the Panel to consider this in the light of the public interest.

Resolved - That under section 100 (A) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following item of business on the grounds that it involves the likely disclosure of exempt information as defined by paragraphs 3 and 1 of Part I of Schedule 12A (as amended) to that Act in that it contains commercially sensitive information. The Public Interest test has been applied and favours exclusion.

12 **CALLISTER YOUTH CLUB**

The Standards and Constitutional Oversight Committee gave consideration to documentation relating to the financial affairs of the Callister Youth Club and information relating to individuals.

Resolved – That

- (1) the report's appendices be noted; and**
- (2) arrangements be confirmed for the candidate interviews.**

STANDARDS AND CONSTITUTIONAL OVERSIGHT WORKING GROUP

Thursday, 29 June 2017

Present: Councillor M McLaughlin (Chair)

Councillors C Blakeley P Gilchrist
WJ Davies (In place of RL Abbey) P Stuart
G Ellis

Independent Prof R Jones
Member

1 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Ron Abbey.

2 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Members were asked to consider whether they had any disclosable pecuniary interests and/or any other relevant interest in connection with any item(s) on this agenda and, if so, to declare them and state what they were.

No such declarations were made.

3 TERMS OF REFERENCE - 2017

The Assistant Director: Law and Governance introduced the summary paper that set out the Terms of Reference – 2017 for the Standards and Constitutional Oversight Working Group.

The document set out the scope and remit, membership, voting and meeting arrangements and that the Working Group shall only be permitted to make recommendations to the Council's Standards and Constitutional Oversight Committee in relation to matters falling within the agreed scope and remit.

Resolved – That the Terms of Reference for the Standards and Constitutional Oversight Working Group (2017) be agreed.

4 **RECRUITMENT OF INDEPENDENT MEMBERS - UPDATE**

Shirley Hudspeth, Committee and Civic Services Manager provided the Working Group with an oral update on progress made in respect of the recruitment of Independent Members.

The Working Group was informed that a Public Notice had been published on 30 April 2017 and 5 applications had been received to date – 4 from the Wirral (Thingwall, Moreton and Wallasey x2), and one from outside the borough (Newport, Shropshire). Members noted that a briefing note and a set of interview questions were currently being prepared.

The Chair enquired if there were sufficient numbers to progress to the interview stage. The Committee and Civic Services Manager confirmed that this was the case, although more candidates would have provided greater flexibility in terms of the conducting of business.

The Committee and Civic Services Manager enquired of Members' availability for the interview selection process and suggested that a daytime meeting on either 13 September or 14 September might fit well with Members' diary commitments. Members agreed that candidates should be contacted accordingly.

The Working Group agreed that the Interview Panel comprise of three Elected Members on a cross-party basis (1-1-1). Councillors McLaughlin, Blakeley and Gilchrist confirmed that they would be willing to serve on the Interview Panel.

Resolved – That

- (1) applicants for the role of independent Members be contacted with regard to selection interviews to be held on either 13 or 14 September 2017; and**
- (2) an Interview Panel be established of three Elected Members on a cross-party basis (1-1-1) with a membership comprising:**

**Cllr M McLaughlin
Cllr C Blakeley
Cllr P Gilchrist**

5 CO-OPTED MEMBERS FOR THE CHILDREN AND FAMILIES OVERVIEW AND SCRUTINY COMMITTEE

Patrick Sebastian, Committee Officer updated the Working Group on actions taken to date following the recent resignation of co-opted Members of the Children and Families Overview and Scrutiny Committee.

Members were informed that the two diocese had been contacted regarding replacement members, and that nominations were promised in due course. The Committee Officer further informed that the Parent Governor vacancy had also been reported to Wirral schools in May 2017, but as yet no applications / nominations had been received. A reminder notification was diarised for the week following this meeting of the Working Group.

The Assistant Director: Law and Governance provided advice, and re-iterated the legal requirement and importance of such co-opted members in the scrutiny of educational matters.

Resolved – That the oral update be noted.

6 WIRRAL COUNCIL MEMBERS' CODE OF CONDUCT AND PROTOCOL

The Chair of the Working Group and the Assistant Director: Law and Governance jointly introduced the item and informed that it was the role of the Working Group and subsequently the Standards and Constitutional Oversight Committee to continually review the Members' Code of Conduct and Protocol. The Assistant Director: Law and Governance advised that it was important that Members highlight key areas of focus for timely reviews of the Members' Code of Conduct and Protocol.

A Member commented on the practical procedures in place to monitor and/or highlight Member attendance at meetings and how absence through illness was managed.

The Chair requested clarification on the matter of sanctions available in cases where the Code of Conduct had been broken. Another Member pointed out that the most punitive sanction i.e. suspension was available where the law had been broken falling to the Police, DPP and Magistrates to pursue via the courts.

The Chair sought advice on the particular matter of when a Member could argue they were acting in a personal capacity. The Working Group was informed that there was no distinction and Members were considered to be acting in their role of Councillor at all times, this included when using Social Media even when 'posts' did not highlight an individual's appointment as an Elected Member.

The Working Group considered the Chair's request that a review of the Council's Social Media Policy be included in its Work Programme for 2017.

Resolved – That the Council's Code of Conduct, Member sanctions, investigation timescales, Member/Officer Protocol and the Council's Social Media Policy be included in the Standards and Constitutional Oversight Work Programme 2017.

7 WORK PROGRAMME

Further to the previous item, the Assistant Director: Law and Governance informed that it was important that the Working Group highlight key areas of focus for inclusion and review as part of the Work Programme 2017.

A Member summarised the previously agreed topics, namely:

- Timescales for dealing with breaches in the Member Code of Conduct;
- Sanctions;
- Member/Officer Protocol; and
- Social Media Policy

Another Member requested that the matter of Disclosure and Barring Service (DBS) checks for Elected Members be reconsidered given that many, if not all, Councillors would be visiting vulnerable residents in their own homes as part of their Ward work. The Assistant Director: Law and Governance informed that he would take the matter up with Human Resources and report back to the Working Group. He added that guidance for Members regarding unsupervised visits could be helpful. A Member identified that any form of additional advice or protection in terms of DBS vetting would aid them in the delivery of their Ward duties.

The Chair questioned the Assistant Director: Law and Governance on the subject of the filming of Council meetings and whether a Policy review on the subject would be beneficial, given that the Council had plans to introduce the filming and webcasting of its meetings.

The Working Group was informed that this was a matter that would form the topic of a report to its next meeting and would include an update on the reasonableness of facilities, tender information, replacement of audio equipment and a holistic solution that could include the definition of certain areas for location of filming by members of the public (to help avoid the interference of meeting proceedings).

A Member pointed out that the Members' Allowance Scheme required clarification on the subject of amounts payable in terms of overseas travel

subsistence and accommodation. The Civic and Committee Services Manager informed that the Members' Allowance Scheme was under review by the Independent Panel on Members' Allowances and that this would matter would be included as part of their review.

Resolved – That the following items be included in the Standards and Constitutional Oversight Work Programme 2017:

- **Council's Code of Conduct, Member Sanctions and Investigation Timescales;**
- **Social Media Policy;**
- **Member/Officer Protocol**
- **Disclosure and Barring Service - Councillors; and**
- **Filming Of Public Meetings - Protocol**

8 DATE AND TIME OF NEXT MEETING

Resolved – That the next meeting of the Standards and Constitutional Oversight Working Group be scheduled for Monday 24 July 2017 at 15:00hrs.

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STANDARDS AND CONSTITUTIONAL OVERSIGHT COMMITTEE

Thursday, 21 September 2017

Present: Councillor M McLaughlin (Chair)
Councillors P Gilchrist
A Hodson (In place of C Blakeley)

Councillor Moira McLaughlin in the Chair.

13 APOLOGIES FOR ABSENCE

Apologies had been received from Councillor Chris Blakeley.

14 DECLARATIONS OF INTEREST

Members were asked to consider whether they had any disclosable pecuniary interests and/or any other relevant interest in connection with any item(s) on this agenda and, if so, to declare them and state the nature of the interest.

Members were advised that should a candidate be known to them they should so declare. Members were further advised that a work based relationship would not form a basis for prejudice.

Councillor Moira McLaughlin informed that she had knowledge of more than one candidate.

Councillor Phil Gilchrist informed that he had knowledge of one candidate.

15 TRUSTEES OF CALLISTER YOUTH CLUB

The Chair welcomed the six prospective Trustees to the meeting and informed that the Sub-Committee was in receipt of copies of their application paperwork detailing the written responses to questionnaires circulated in advance of the meeting.

The Chair informed that Members of the Sub-Committee were to determine whether the candidates collectively held the appropriate abilities, skills and time to act as Trustees of the Callister Youth Club. Candidates were also informed that in the interests of transparency of process the meeting was being held in public, but that should any questions deemed to be of a personal nature be asked any members of the public present would be excluded and any responses or further questioning would take place in closed session. The

Chair advised that in addition to individual questions being directed to the candidates the meeting would also elicit information from the group in conversation on specific topics.

At the request of the Chair, the prospective Trustees - Allan Brame, Karen Freeman, Mary O'Neill, Laura Penn, Melanie Routledge and Catherine Warren (The Group) - explained how they had come together, and one by one detailed their personal experiences, qualifications and skills relevant to the role.

Following the verbal updates, Members of the Sub-Committee questioned the candidates seeking reassurance of their understanding of the role and understanding of the time commitment required. Members also asked the candidates on their plans for the Trust, allocation of individual responsibilities, proposals for the administration and development of the Trust, and contingency planning with regard to the Trust's assets. The candidates responded, providing evidence of past and current experiences in teaching, marketing, engaging with young people, working with health visitors, youth and women's groups, recruitment, investment planning, acting as a Trustee, organising youth theatre and acting as school governor(s).

At the request of a Member of the Sub-Committee, the candidate group also provided a range of ideas for the development of the Trust and its assets. The Sub-Committee were impressed by the candidate's knowledge of the Trust, its purpose, location, assets and current state of repair.

At the conclusion of questioning, the candidates were asked to leave the meeting whilst the Sub-Committee made their deliberations.

16 **EXCLUSION OF THE PRESS AND PUBLIC**

On a motion by the Chair, duly seconded it was -

Resolved - That, under section 100 (A) (4) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following item of business on the grounds that it involves the likely disclosure of exempt information as defined by paragraph 1 of Part I of Schedule 12A (as amended) to that Act.

17 **TRUSTEES OF CALLISTER YOUTH CLUB**

Having considered the written and oral responses to the Sub-Committees questions, Members expressed a view that the candidates had clearly demonstrated a good range of the skills and personal qualities demanded of the role of Trustee, and were taken by the level of enthusiasm and working knowledge demonstrated during the interview process.

Candidates were invited to return to the meeting and the Chair then informed them how the Sub-Committee had been impressed by their enthusiasm and commitment to the project and that, subject to satisfactory references being received by the Assistant Director: Law and Governance, it was:

Resolved – That

- (1) the Standards and Constitutional Oversight Sub-Committee is satisfied as to the suitability of ‘The Group’ to act as Trustees to the Callister Youth Club;**
- (2) subject to satisfactory references being provided to the Assistant Director: Law and Governance the appointment of the following persons be approved as the new Trustees of the Callister Youth Club –**
 - Allan Brame**
 - Karen Freeman**
 - Mary O’Neill**
 - Laura Penn**
 - Melanie Routledge**
 - Catherine Warren; and**
- (3) the Council’s Solicitor be instructed to draft the relevant legal documentation to enact the changes.**

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STANDARDS AND CONSTITUTIONAL OVERSIGHT COMMITTEE

Tuesday, 31 October 2017

Present: Councillor M McLaughlin (Chair)

Councillors P Stuart P Gilchrist
C Blakeley B Kenny
WJ Davies B Mooney (In place
G Ellis of RL Abbey)

In attendance: Prof RS Jones – Independent Person

18 CHAIR'S ANNOUNCEMENT

Councillor M McLaughlin announced that it had not been possible to arrange for signers to be in attendance at the meeting to assist Councillor L Reecejones (the Subject Member) who had hearing difficulties. The soonest that they were able to attend was 6pm. She asked Councillor Reecejones if she was happy and comfortable to go ahead without them or would she like the meeting adjourned until 6pm.

Councillor Reecejones confirmed that she was happy and comfortable with the arrangements in the meeting room and that the meeting could go ahead. She informed that she had brought a Mr Michael Chard with her to provide her with assistance.

19 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors R Abbey and J Hale.

20 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Councillor C Blakeley informed that he was the subject Member of a complaint.

Professor RF Jones informed that he had been present at the Standards Panel meeting on 15 June 2017.

STANDARDS PANEL DECISION OF 15TH JUNE 2017 CONCERNING COUNCILLOR LOUISE REECEJONES AND FURTHER REVIEW

Councillor M McLaughlin introduced the Interim Director: Law and Governance who then presented his report and supporting appendices. He informed that the Standards Panel, at its meeting on 15 June 2017, had considered an investigation into allegations that Councillor L Reecejones had breached the Members' Code of Conduct and had determined that she had done so.

This decision had required a number of actions to be taken, including reporting the outcome to a public meeting. This decision had been subject to a request for an appeal which had been unsuccessful as the former Director: Law and Governance had considered there to be insufficient grounds to allow it. The Interim Director's report set out the steps that had, or had not been taken by Councillor Reecejones and others in responding to the actions required.

Members were informed that the procedure that was being adopted for the meeting was that the Committee would receive the report, Members could then ask any questions they may have and then the complainants would each be invited to make a short statement. Councillor Reecejones would then be invited to respond and then the Committee would debate and decide what was to happen next.

The Committee considered the background to the allegations in detail and noted that the sanctions the Panel had agreed would be imposed on Councillor Reecejones were as follows:

- (a) The Monitoring Officer should write a formal warning letter to Councillor Reecejones reminding her of the need to comply with the Members' Code of Conduct;
- (b) Councillor Reecejones must apologise in writing to all the complainants for breaching the Members' Code of Conduct within 14 days of receiving this Decision notice;
- (c) The Labour Political Group Leader be asked to consider whether party disciplinary action should be taken against Councillor Reecejones and whether she should be removed (through Council) from all outside bodies to which she has been appointed;
- (d) The Monitoring Officer shall arrange both internal and external training for Councillor Louise Reecejones as soon as practicably possible. Should Councillor Reecejones fail to attend the training arranged, the Monitoring Officer shall report this fact to her Political Group Leader for consideration and action; and

- (e) The Panel's decision shall be reported to the next public meeting of the Standards and Constitutional Oversight Committee for consideration.

The Committee received an update on the next steps from the Interim Director, following the Standards Panel's decision being relayed to Councillor Reecejones on 28 July 2017. It noted that to date Councillor Reecejones had not fulfilled any part of what was required of her and the Committee was presented with evidence from the Interim Director and the complainants to support this.

It was noted that on 28 July 2017 the former Director: Law and Governance had received further allegations against Councillor Reecejones from the complainants concerning her behaviour at the Standards Panel meeting and, in particular, that she was continuing with her social media posts making false allegations against them. He determined that as these related to the same causal events and matters already heard they would be included in the review rather than beginning a whole new Standards Panel process. Members noted that the subsequent conclusions of this review were as follows:

- "Although nobody is actually named in the post, in light of the background history and the small community in which the complainants and Councillor Reecejones move it is my view that it is likely that others would know to whom Councillor Reecejones was referring and this could have had the effect of sullyng their reputations.
- "... it is my view that it can be argued that the act complained of, although not signed in an official capacity, was done in a manner which failed to maintain a clear distinction between her personal capacity and role as a councillor and therefore created a risk that there could be a negative impact on the Council and others.
- "I therefore find Councillor Reecejones to be in breach of the Council's Code of Conduct in relation to her post of 11 July 2017. This failed to treat the complainants with respect and engaged in conduct which was contrary to the Council's duty to promote and maintain high standards of conduct."
- "I am compelled to conclude that in her conduct in relation to this investigation Councillor Reecejones has failed to show respect to the Standards process and therefore to the need to maintain high standards of conduct as a councillor."

The Committee was made aware that counter-allegations made by Councillor Reecejones against the complainants had been made both directly and publicly, whereas by contrast the complainants had maintained their silence whilst formal investigations were conducted at the request of the Council and the Police.

The Committee was also presented with a report from the Labour Group Chief Whip which stated that Councillor Reecejones had had the Party Whip withdrawn for an indefinite period by the Labour Group, and also with a statement from the Labour Party Acting Regional Officer informing that this had been reduced on appeal to a four month suspension, backdated to September 2017. This was because of mitigating circumstances that the Regional Labour Party had heard from Councillor Reecejones and it was dependant on her fulfilling certain requirements.

Members asked a number of questions and made various comments and, as a result, it was expressed that it had become clear to the Committee that Councillor Reecejones had not shown respect to the Standards process and that she had not co-operated fully with the original investigating officer.

The Committee heard from the three complainants who in turn described the impact that Councillor Reecejones` actions had had on their lives and that of their families. They informed of their disappointment that the actions of the Wirral Labour Group had not been supported by the Regional Labour Party. Committee Members felt the need to apologise for that and commented that in its actions the Labour Appeal Panel appeared to have failed to recognise the seriousness of this case and the impact that the behaviour of a Labour Councillor had had on the complainants and their families.

The complainants stated that they wanted the false allegations to stop now and that as recently as this week Councillor Reecejones had made a false allegation on social media.

Councillor Reecejones informed the Committee that she had apologised to all of the complainants but that the Interim Director had perceived that the way she had done this had not been in the spirit of the Standards Panel's decision. Consequently, Councillor Reecejones asked for advice on how to apologise.

Councillor Reecejones informed that she would never seek to deceive or discredit another person. She reported that her Facebook was locked and the screen shots of 11 July 2017 were not her Facebook posts. She asked that they be sent to Merseyside Police. She had done so and received a crime number but had been told that as she had not received the screen shots directly they would only be considered if the complaint was submitted by the Council. Councillor Reecejones also informed that she had not been advised to apologise in respect of the further complaints. She considered that the whole investigation had been about fraudulent documents.

The Interim Director reported that any allegation that Cllr Reecejones wished to make to the police was a matter for her, although of course the Council would co-operate with Merseyside Police. However, it had not been contacted by them over this matter.

Councillor Reecejones told the Committee that she had suffered catastrophic reputational damage and that had affected her life and that of her family. Her university studies had suffered and she had received a death threat. She stated that she had not been charged with any offense

Councillor McLaughlin stated from the Chair that holders of the public office should act solely in terms of the public interest. The Members' Code of Conduct was based on the seven principles of public life that were set out in the Localism Act, 'The Nolan Principles'. These included the principles of selflessness, integrity, honesty and leadership. The Standards Panel's decision in June had shown how the wrongs committed might be put right. Councillor McLaughlin considered that what Members had heard today was that, instead, Councillor Reecejones' conduct had continued in the same vein as before, seeking to wrongfully blame and victimise the complainants in this matter and doing as little as possible, as late as possible, in order to maintain her position.

Therefore, Councillor McLaughlin proposed that:

- (1) the apology to be provided should be provided in writing to each of the complainants within 14 days of Councillor Reecejones receiving the outcome of this meeting and be worded in such a way as to show that she appreciates that, through her actions in breaching the Members' Code of Conduct, she damaged others and she undertakes to apologise for that and agrees not to do that again;
- (2) this Committee considers that Councillor Reecejones has failed to abide by the Standards Panel's decision and wishes to make it clear that it expects her to write personally to the complainants and make a full and public apology for her actions, as set out in the Panel's decision;
- (3) this Committee finds that Councillor Reecejones continued to seek to victimise the complainants even after the Standards Panel's decision was made and then sought to cover that up when a further complaint was submitted, showing herself to be an unreliable witness before the investigators and the Panel;
- (4) this Committee asks that the Labour Group considers this further information and what steps it might now take in terms of Group and Party discipline within their procedures;

- (5) the Chair of the Committee be requested to write to the Leader of the Labour Group to express how seriously the Committee regards the original breach and further actions and to ask that the actions of the Labour Group and Labour Party should reflect the seriousness of the situation;
- (6) this Committee asks Councillor Reecejones to now fulfil the actions required of her to make a full and public apology to the complainants and to cease her victimisation of them; and
- (7) this Committee formally apologises to the complainants in this case, on behalf of the Council, and in the absence of Councillor Reecejones having done so as required by the Standards Panel. Their decision to come forward and highlight the issues they identified was both brave and borne out of nothing other than their desire to do the right thing. As a result, they became the targets in a series of accusations and allegations, as outlined in the paperwork before the Committee that, as the Council instigated reports show, were false and indeed vindictive. Their behaviour was and continues to be exemplary and they should be applauded.

A Member also proposed that as well as the apology at (1) above, Councillor Reecejones must apologise for her unacceptable behaviour orally at the next meeting of the Council scheduled for 11 December 2017.

These proposals were seconded by Councillor Paul Stuart and put to the vote and it was

RESOLVED (unanimously): That

- (1) the apology to be provided should be provided in writing to each of the complainants within 14 days of Councillor Reecejones receiving the outcome of this meeting and be worded in such a way as to show that she appreciates that, through her actions in breaching the Members' Code of Conduct, she damaged others and she undertakes to apologise for that and agrees not to do that again;**
- (2) as well as the apology at (1) above, Councillor Reecejones must apologise for her unacceptable behaviour orally at the next meeting of the Council scheduled for 11 December 2017;**
- (3) this Committee considers that Councillor Reecejones has failed to abide by the Standards Panel's decision and wishes to make it clear that it expects her to write personally to the complainants and make a full and public apology for her actions, as set out in the Panel's decision;**

- (4) this Committee finds that Councillor Reecejones continued to seek to victimise the complainants even after the Standards Panel's decision was made and then sought to cover that up when a further complaint was submitted, showing herself to be an unreliable witness before the investigators and the Panel;**
- (5) this Committee asks that the Labour Group considers this further information and what steps it might now take in terms of Group and Party discipline within their procedures;**
- (6) the Chair of the Committee be requested to write to the Leader of the Labour Group to express how seriously the Committee regards the original breach and further actions and to ask that the actions of the Labour Group and Labour Party should reflect the seriousness of the situation;**
- (7) this Committee asks Councillor Reecejones to now fulfil the actions required of her to make a full and public apology to the complainants and to cease her victimisation of them; and**
- (8) this Committee formally apologises to the complainants in this case, on behalf of the Council, and in the absence of Councillor Reecejones having done so as required by the Standards Panel. Their decision to come forward and highlight the issues they identified was both brave and borne out of nothing other than their desire to do the right thing. As a result, they became the targets in a series of accusations and allegations, as outlined in the paperwork before the Committee that, as the Council instigated reports show, were false and indeed vindictive. Their behaviour was and continues to be exemplary and they should be applauded.**

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Standards and Constitutional Oversight Committee Monday, 20 November 2017

REPORT TITLE:	Appointment of Independent Persons
REPORT OF:	Assistant Director: Law & Governance (Monitoring Officer)

REPORT SUMMARY

In 2012 four Independent Person appointments were made but two have since resigned. There remains two Independent Persons who sit on the Standards and Constitutional Oversight Committee and Panel as their term of office has been subsequently extended until 15 July 2020.

A further recruitment exercise was approved by the Committee at its meeting on 5 December 2016 (Minute No. 23 refers.) with the aim of appointing more Independent Persons because it is recognised that there are benefits to having independent voices on the Committee and its Panel, as Elected Members can take advantage of their expertise and experience. Therefore, it is considered very important to build up the pool of Independent Persons that can be called upon to assist the Council with Standards matters etc. and so increase resilience.

This approach will ensure good governance within the Council and by Councillors and supports all strategic priorities. Good governance underpins the Council's values and the Wirral Plan.

Independent Persons can also be requested to offer advice in respect of complaints made against Elected Members and can be called upon in the event of the proposed dismissal of the Head of Paid Service, Monitoring Officer or Chief Finance Officer in accordance with their statutory role.

This report updates the Committee on the recruitment of Independent Persons. The Selection Panel, consisting of Councillors David Elderton, Phil Gilchrist and Moira McLaughlin met on 14 September 2017 and interviewed four candidates. All four are deemed worthy of selection, subject to satisfactory references.

RECOMMENDATION/S

It is recommended that the Committee approves all four potential Independent Persons for recommendation to the Council for appointment as follows:

- Mr G Kerr
- Mr JR McCosh
- Ms Angele Lloyd Prince
- Mr A Wilson

SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 Section 27 of the Localism Act 2011 imposes a duty on the Council to “promote and maintain high standards of conduct by Members and co-opted Members” of the Council. The Council is required to adopt a Code dealing with the Conduct that is expected of Members and co-opted Members of the Council when they are acting in that capacity, and must have in place arrangements under which allegations that a Member has failed to comply with the Code of Conduct can be investigated, and arrangements under which decisions on allegations can be made. Those arrangements must include the appointment of at least one “independent person”, whose views must be sought, and taken into account, before any decision on an allegation which has been investigated is taken.
- 1.2 The Council has delegated to the Standards and Constitutional Oversight Committee the function of investigating and determining any allegations of a breach of the Code of Conduct by individual Members. The Committee comprises of nine Members of the Council and the Independent Persons, who are non-voting Members of the Committee, because a Member who has not been elected does not have a vote unless specifically given by legislation.
- 1.3 In May 2015 the Local Authorities (Standing Orders) (England) (Amendment) Regulations were passed. These provide that where a decision to dismiss any statutory officer is to be taken by the Council, prior to making such a decision, the Council must invite at least two Independent Persons to be members of a Panel to consider the matter, and take any recommendations from that Panel into account before making the final decision.
- 1.4 The Chief Officer’s Employment Disciplinary Sub-Committee has this remit in accordance with the Council’s Constitution and Independent Persons appointed to support the Standards regime must be invited to sit on this Sub-Committee if there is a need for it to meet. If there are none, or they are unable to participate, any Independent Persons appointed by another authority may be invited to participate. It is considered most appropriate to utilise the Council’s own Independent Persons appointed to support the Standards regime for this purpose, and it is, therefore, proposed that this role be added to their job description. There has not been a requirement for this Sub-Committee to meet yet.
- 1.5 Independent Persons fulfil a statutory role in relation to Members’ conduct issues. The appointment of a further four Independent Persons, as part of the Council’s Standards Framework, will provide resilience in case of illness or other absence.
- 1.6 In 2012 the Council appointed four Independent Persons but over the years two have resigned. To boost the pool of Independent Persons and so allowing more flexibility, following the Committee’s approval, a further recruitment process got underway earlier in the year. As a result it is

proposed to recommend to the Council that the four candidates that recently had successful interviews by the Selection Panel be appointed for a four year term of office.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 To make less than the four recommended new Independent Person appointments or to make none at all.

3.0 BACKGROUND INFORMATION

- 3.1 Standards Committees had Independent Members until July 2012. The Localism Act 2011 made significant changes to the Standards regime in local authorities, including the abolition of Independent Members from this date. A new role of Independent Person was established.

- 3.2 It is a requirement of the Localism Act 2011 that the Council must appoint at least one independent person to advise its Standards Committee, particularly on investigations into allegations that a Member has breached the Code of Conduct, and to advise any individual Member of the Council who is the subject of a complaint under the Code of Conduct. The appointment process must satisfy the requirement in the Act that the vacancy for an Independent Person must be advertised in such manner as the authority considers is likely to bring it to the attention of the public. There is an advert, application and interview process followed by confirmation of appointment(s) by the Council.

- 3.3 Following an extremely successful recruitment process in 2012, the Council, at its meeting on 16 July 2012 agreed the appointments of the following Independent Persons to the Standards Committee for a four year team of office (until 16 July 2016):

- Professor RS Jones
- Mr C Jones
- Mr D Burgess-Joyce
- Mr B Cummings

(Minute No. 43 refers.)

- 3.4 Early in 2015 Mr D Burgess-Joyce, who had provided excellent support to the Standards and Constitutional Oversight Committee, resigned as an Independent Person in order to stand for election to the Council in the Greasby, Frankby and Irby Ward. He was subsequently elected in May 2015 and became a Member of the Council.

- 3.5 The three remaining Independent Persons continued to provide excellent independent support to the Standards and Constitutional Oversight Committee and the Monitoring Officer. They have gained substantial knowledge and experience in the role. Consequently, they were invited and agreed to continue as Independent Members of the Committee when their term of office came to an end. They were subsequently, re-appointed by the Council at its meeting on 14 July 2016, for a further four year term of office

(until 15 July 2020). Unfortunately, in June 2017 Mr B Cummings resigned because of ill health.

(Minute No. 33 refers.)

- 3.6 The law provides that a person may not be an Independent Person if he or she is a Member, a co-opted member or an officer of the Council, or a relative or close friend thereof. It also provides that a person may not be appointed if they were a Member or co-opted member during the past five years.
- 3.7 Following the Committee's approval, the recruitment process commenced early in 2017. It involved an advertisement, application process and interviews held by a Selection Panel of Members drawn from the Committee and the Monitoring Officer.

4.0 FINANCIAL IMPLICATIONS

- 4.1 Independent Persons receive a payment of £25 for each meeting they attend and the payment for the use of their private motor vehicle to and from the meeting is made at the rate of 45p per mile.

5.0 LEGAL IMPLICATIONS

- 5.1 The position of Independent Persons is a statutory requirement through the Localism Act 2011, and the scope of the role has been extended as detailed in Paragraphs 1.3 and 1.4 above.

6.0 RESOURCE IMPLICATIONS: ICT, STAFFING AND ASSETS

- 6.1 None specific to this report.

7.0 RELEVANT RISKS

- 7.1 The recruitment process will ensure that there are Independent Persons in place to undertake the duties set out in the Localism Act 2011, which reduces the risk of both reputational damage to the authority and the risk of any decision by a Standards and Constitutional Oversight Committee being open to challenge due to lack of a required Independent Person.
- 7.2 The Council previously had four Independent Persons it could call on but since 2015 it has only had three. These Persons may not always be available due to other conflicting commitments. Therefore, making additional Independent Person appointments is considered to be prudent and builds in more flexibility. This action will build more flexibility into the Standards process.

8.0 ENGAGEMENT/CONSULTATION

- 8.1 Information from neighbouring authorities is that they have had significant difficulties in recruiting to the role of Independent Person.

9.0 EQUALITY IMPLICATIONS

9.1 None specific to this report.

REPORT AUTHOR: *Shirley Hudspeth*
Committee and Civic Services Manager
Telephone: (0151) 691 8559
Email: shirleyhudspeth@wirral.gov.uk

APPENDICES

None

REFERENCE MATERIAL

The Localism Act 2011, Part 1, Chapter 7.
The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Council	16 July 2012
Council	14 July 2016
Standards and Constitutional Oversight Working Group	19 September 2016
Standards and Constitutional Oversight Committee	5 December 2016

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WIRRAL COUNCIL

STANDARDS AND CONSTITUTIONAL OVERSIGHT COMMITTEE

20 November 2017

SUBJECT:	SUMMARY OF STANDARDS COMPLAINTS
REPORT OF:	MONITORING OFFICER

REPORT SUMMARY

This report provides a summary of standards complaints received under the Members' Code of Conduct and Protocol for dealing with complaints against Members between 1 April 2016 and 31 May 2017.

RECOMMENDATION

That the Committee notes the summary of standards complaints set out at Appendix 1 to this report.

SUPPORTING INFORMATION

1.0 REASONS FOR RECOMMENDATION

1.1 To provide the Committee with an opportunity to consider the handling and progress of standards complaints.

2.0 OTHER OPTIONS CONSIDERED

2.1 The process for the administration of standards complaints is undertaken in accordance with the Protocol for dealing with complaints against Members which was approved by the Committee.

3.0 BACKGROUND

3.1 The Council is required to deal with complaints made against Members under its approved Ethical Framework.

3.2 In order to assist with the effective administration of standards complaints, the Committee, as part of its monitoring role, is invited to consider the nature and handling of complaints received pursuant to the Members' Code of Conduct.

3.3 Appendix 1 sets out a summary of the complaints received and their status.

3.4 The Ethical Framework requires complaints to be dealt with confidentiality (unless permitted by the Protocol) and therefore it is not possible to provide extensive details in respect of each complaint.

3.5 Between 1 April 2017 and 31 May 2017 a total of 14 complaints in respect of Members Code of Conduct have been received. 1 Complaint was withdrawn, and 1 complaint had been submitted on the incorrect form regarding a Council Service.

Period	Complainant		Ongoing	Referred for Investigation	Outcome		
	Member	Public			Upheld	Partially Upheld/ other outcome	Not Upheld
01/04/2015 to 31/05/2016	2	10	3	3	4	0	9

4.0 FINANCIAL IMPLICATIONS

4.1 There are no financial implications arising from this report save that where an external investigator is appointed, additional costs will be incurred. Such costs

will vary depending upon the nature of the complaint and the time taken to undertake and complete the investigation.

5.0 LEGAL IMPLICATIONS

- 5.1 Under the Localism Act 2011 the Council is required to have a Code of Conduct relating to the conduct of Members and arrangements in place to deal with any complaints received in respect of Members conduct.
- 5.2 This report provides an opportunity for the Committee to monitor the progress of complaints.

6.0 RESOURCE IMPLICATIONS

- 6.1 There are no such issues arising from this report.

7.0 RELEVANT RISKS

- 7.1 The administration of standards complaints should be dealt with as efficiently as possible to ensure matters are concluded quickly and closure of issues secured for both complaint and the subject member(s) involved.

8.0 ENAGEMENT/CONSULTATION

- 8.1 There are no such issues arising.

9.0 EQUALITIES IMPLICATIONS

- 9.1 There are no specific discrimination issues arising from this report.

REPORT AUTHOR: **Phil McCourt**
Interim Head of Law and Governance
and Monitoring Officer
Telephone: (0151 691 8469)
Email: pmccourt@wirral.gov.uk

APPENDICES

Appendix 1 – Summary of Standards Complaints

REFERENCE MATERIAL

None

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SUMMARY OF STANDARDS COMPLAINTS –1 April 2016 - 31 May 2017

1 April 2016 - onwards					
Case Ref	Nature of Complaint	Current Status	Next Stage	Anticipated Date for Conclusion	
1	Standards 2016/2 (Received 4 April 2016)	Conduct inconsistent with the duty to promote and maintain high standards	Initial assessment and evaluation of complaint completed. Complaint upheld.	Matter concluded no further action	n/a
2	Standards 2016/3 (Received 15 Apr 2016)	Failed to treat others with respect Conduct inconsistent with the duty to promote and maintain high standards	Initial assessment and evaluation of complaint completed	Matter concluded no further action	n/a
3	Standards 2016/4 (Received 10 May 2016)	Failed to treat others with respect Conduct inconsistent with the duty to promote and maintain high standards	Investigation completed	Awaiting compliance with sanctions imposed	Dec 2017
4	Standards 2016/5 (Received 10 May 2016)	Conduct inconsistent with the duty to promote and maintain high standards	Withdrawn	n/a	n/a
5	Standards 2016/6 (Received 7 Aug 2016)	Failed to treat others with respect Conduct inconsistent with the	Investigation completed	Awaiting compliance with sanctions imposed	Dec 2017

		duty to promote and maintain high standards			
6	Standards 2016/7 (Received 10 Aug 2016)	Conduct inconsistent with the duty to promote and maintain high standards	Initial assessment and evaluation of complaint completed.	Matter concluded no further action	n/a
7	Standards 2016/8 (Received 21 Aug 2016)	Failed to treat others with respect Conduct inconsistent with the duty to promote and maintain high standards	Investigation completed	Awaiting compliance with sanctions imposed	Dec 2017
8	Standards 2016/9 (Received 23 Aug 2016)	Conflict of Interest Conduct inconsistent with the duty to promote and maintain high standards	Initial assessment and evaluation of complaint completed	Matter concluded no further action	n/a
9	Standards 2016/10 (Received 15 Oct 2016)	Complaint regarding service not Councillor. Complainant used incorrect form on Council website	Passed to relevant Service area to respond and action	Street Scene actioned And now closed	n/a
10	Standards 2016/11 (Received 11 Nov 2016)	Complaint regarding council press release	Initial assessment and evaluation of complaint completed	Matter concluded no further action	n/a
11	Standards 2017/12 (Received 21 Jan 2017)	Failed to treat others with respect Conduct inconsistent with the	Initial assessment and evaluation of complaint completed	Matter concluded no further action	n/a

		duty to promote and maintain high standards			
12	Standards 2017/13 (Received 21 Mar 2017)	Conduct inconsistent with the duty to promote and maintain high standards	Initial assessment and evaluation of complaint completed	To be referred and actioned by the Standards and Constitutional oversight Working Group	TBC
13	Standards 2017/14 (Received 12 Apr 2017)	Conduct inconsistent with the duty to promote and maintain high standards	Initial assessment and evaluation of complaint completed	Matter referred to Party Leader	n/a
14	Standards 2017/15 (Received 22 May 2017)	Failed to treat others with respect Conduct inconsistent with the duty to promote and maintain high standards	Initial assessment and evaluation of complaint completed	Matter referred to Party Leader	n/a

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WIRRAL COUNCIL

STANDARDS AND CONSTITUTIONAL OVERSIGHT COMMITTEE

November 2017

SUBJECT:	CONSULTATION ON THE DISQUALIFICATION CRITERIA FOR COUNCILLORS
REPORT OF:	MONITORING OFFICER

REPORT SUMMARY

This report sets out the detail of a Department of Communities and Local Government (DCLG) consultation exercise proposing to update the criteria that bar individuals from becoming a local councillor or directly elected mayor.

RECOMMENDATION

That the Standards and Constitutional Oversight Committee consider the consultation on the disqualification criteria for councillors and directly elected mayors and instruct the Monitoring Officer to send a written response:-

- (a) in accordance with the Committee's views; and
- (b) respond to the consultation's direct questions that the Committee
 - i) Agree that an individual who is subject to the notification requirements set out in the Sexual Offences Act 2003 should be prohibited from standing for election, or holding office, as a member of a local authority;
 - ii) Agree that an individual who is subject to a Sexual Risk Order (SRO) should be prohibited from standing for election, or holding office, as a member of a local authority;
 - iii) 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 (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;
 - iv) 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; and
 - v) Does not believe that the proposals set out in the consultation paper will have an effect on local authorities ability to discharge their Public Sector Equality Duties under the Equality Act 2010.

SUPPORTING INFORMATION

1. Reasons for Recommendation

- 1.1 That the Standards and Constitutional Oversight Committee is requested to consider the proposals in the consultation paper and agree the substance of a response to be made to DCLG.

2. Background

- 1.1 Section 80 Local Government Act 1972 sets out a number of circumstances in which a person will be disqualified from standing for or holding office as a local authority member or directly-elected mayor. One such disqualification applies if a person has, within five years of the day of the election, or since their election, been convicted in the United Kingdom, the Channel Islands or the 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.
- 1.2 DCLG has very recently issued a consultation paper which sets out the Government's proposals for updating the criteria disqualifying individuals from standing for, or holding office as, a local authority member or, directly-elected mayor or member of the London Assembly. The consultation paper is appended to this report at Appendix 1. The Government is of the view that the law should be updated to reflect new options to protect the public and address unlawful and unacceptable behaviour.

- 1.3 The Government is proposing to broaden the disqualification criteria. In addition to the current disqualification criteria, under the proposals, individuals will also be banned from standing for office if they are subject to:-
- the notification requirements set out in the Sexual Offences Act 2003 ('being on the sex offenders register');
 - a civil injunction granted under s.1 of the Anti-social Behaviour, Crime and Policing Act 2014; or
 - a Criminal Behaviour Order made under s.22 of the Anti-social Behaviour, Crime and Policing Act 2014.
- 1.4 The proposals in the consultation will not apply retrospectively. 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 any changes come into force will not be affected. Clearly any such individuals would be prevented from standing for re-election after the changes come into force.
- 1.5 The consultation began on the 18th September and will run for 12 weeks, closing on Friday 8th December 2017.

2. The Consultation

- 2.1 The changes being proposed would bring the law much more into the present day by adding to the disqualification criteria to reflect recently available sanctions.
- 2.2 The consultation document proposes that in relation to sexual offences 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 London Assembly member. An individual can become subject to the notification requirements by committing certain 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.

The period of time for which such individuals would be barred would end once they were no longer subject to those notification requirements.

2.3 In relation to anti-social behaviour, the consultation document proposes that an individual who is subject to an anti-social behavior 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 London Assembly member. A Civil Injunction will be made which is 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. A Criminal Behaviour Order will be made by a court 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. Applications are made by prosecution, in most cases by the Crown Prosecution Service, either at its own initiative or following a request from the police or council. The period of time for which they would be barred would end once the individual was no longer subject to the injunction or Order.

2.4 It is not proposed to include other types of civil order, e.g. Sexual Risk Order, as in those circumstances the individual 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. Similarly, other anti-social behaviour orders not issued by the court i.e. the use of Dispersal Powers, Community Protection Notices, Public Spaces Protection Orders and Closure Powers would not result in disqualification.

3. Commentary

3.1 In issuing the Consultation, the accompanying DCLG press statements added the following commentary:

- The planned changes to the disqualification criteria for councillors and mayors “would ensure those who represent their communities are held to the highest possible standards”.
- Under the current rules anyone convicted of an offence carrying a prison sentence of more than three months is banned from serving as a local councillor.
- Local Government Minister Marcus Jones said that while this might have prevented criminals from becoming councillors, it did not reflect modern sentencing practices.

- He added: “Councillors hold an important position of trust and authority in communities across England. We need to hold them to the highest possible standards.
- “The current rules are letting residents and councils down by not preventing people who should never be considered for such roles from standing for election.
- “The changes the government is proposing would help make sure anyone convicted of a serious crime, regardless of whether it comes with a custodial sentence, will not be able to serve as a councillor.”
- The proposed measures would “bring rules much more into the present day” by including the alternatives to a prison sentence also becoming a barrier to being a councillor.

3.2 As an over-arching comment in reply to the Consultation questions, it is the Monitoring Officer’s view that:

- (a) 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.
- (b) The proposed additional disqualification criteria are proportionate to reflect new options which exist to protect the public and address unlawful and unacceptable behaviour.
- (c) These proposals reflect current criminal sentencing powers and will further contribute to public confidence in local government and promote the highest standards in public life. The proposals would also better reflect the rules governing the standards for Members of Parliament (MPs), where MPs face suspension from the House for anything that contravenes the parliamentary code of conduct.

3.3 These proposals 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. Accordingly, beyond, the questions posed by the Consultation, the following reflects the views of the Monitoring Officer and notes related statements made by wider local government commentators

- (a) It is now five years since the Localism Act 2011 changed the standards regime and abolished the Standards Board for England, leaving a void in terms of the sanctions which might be imposed. Local authorities are no longer able to suspend or disqualify councillors who bully, are rude, disclose confidential information or bring their own authorities and local government generally into disrepute. Provided they do not commit a serious criminal offence, members can remain in office until the electorate have a chance to remove them at the next election.

- (b) A recent Lawyers in Local Government (LLG) survey of council legal teams found that 60 per cent of respondents felt that the abolition of the Standards Board and Adjudication Panel had not left their authorities with the tools they needed to keep destructive member behaviours in check.
- (c) Dame Louise Casey raised concerns about this at the end of last year, commenting that with the 2011 Act's reforms, "Government threw out the baby with the bath water in terms of standards in local authorities".
- (d) The Committee on Standards in Public Life has announced in its Forward Plan for 2017/18 that it intends to undertake a review of local government standards during 2017-18.
- (e) In September 2017 a council has written to the Communities Secretary calling for a new 'Right to Recall' councillors in the event of significant conduct or ethical breach, similar to that put in place for Members of Parliament by the Recall of MPs Act 2015.
- (f) The Government's proposals are welcomed but is a reaction to a particular circumstance and has not looked more widely, such as occasions of violence or dishonesty whilst a Member.
- (g) The scope of the consultation considered should be widened to look further than the set criteria of section 80 and also look to options giving local authorities, or others (as in the case of Wales and Scotland), stronger powers over Members' behaviour such as:
 - misusing their public office or appointments;
 - reckless behaviour resulting in the Council suffering a loss;
 - persistently or materially acting against the interests of the Council (and/or partners and the public) and bringing the office of councillor or the Council into disrepute; and/or
 - a civil action for breach of confidence.

4. Legal Implications

- 4.1 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:
- (i) are employed by the local authority;
 - (ii) are employed by a company which is under the control of the local authority;
 - (iii) are subject to bankruptcy orders;
 - (iv) 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;
 - (v) are disqualified under Part III of the Representation of the People Act 1983;
 - (vi) are employed under the direction of various local authority committees, boards or combined authorities which the authority are represented and any member of which is so appointed; or
 - (vii) are a teacher in a school maintained by the local authority.

- 4.2 The consultation document proposes updating the disqualification criteria in section 80 of the Local Government Act 1972, paragraph 9 f schedule 5B to the Local Democracy, Economic Development and Construction Act 2009, to prohibit those subject to the notification requirements (commonly referred to as being '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.
- 4.3 The Equality Act 2010 (the Act) introduced a public sector equality duty (the equality duty or the duty). It covers the following protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. In summary, the Council must, in the exercise of its functions, have due regard to the need to:
- (a) eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
 - (b) advance equality of opportunity between people who share a protected characteristic and those who do not.
 - (c) foster good relations between people who share a protected characteristic and those who do not.

APPENDICES

DCLG Consultation Paper – Disqualification criteria for Councillors and Mayors (September 2017)

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/645454/Disqualification_criteria_for_councillors_and_mayors.pdf

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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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Department for Communities and Local Government
Fry Building
2 Marsham Street
London
SW1P 4TF
Telephone: 030 3444 0000

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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](#).

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