

Standards Committee

Tuesday 14 November 2017

A meeting of the above Committee will be held in the Town Hall, Royal Leamington Spa on Tuesday 14 November 2017, at 6.00pm.

Membership:

Warwick District Councillors

Councillor Bromley
Councillor Mrs Bunker (Vice Chairman)
Councillor Cooke
Councillor Davies (Chairman)
Councillor Mrs Evetts
Councillor Gallagher
Councillor Gill
Councillor Mrs Hill
Councillor Howe
Councillor Margrave
Liberal Democrat Vacancy

Parish and Town Council Representatives

To be appointed

Although not members of the Committee, Mr Meacham and Mr Tomkinson, the Council's Independent Persons for Standards matters, normally attend.

Emergency Procedure

At the commencement of the meeting, the emergency procedure for the Town Hall will be announced.

Agenda

1. Apologies & Substitutes

- (a) to receive apologies for absence from any Councillor who is unable to attend; and
- (b) to receive the name of any Councillor who is to act as a substitute, notice of which has been given to the Chief Executive, together with the name of the Councillor for whom they are acting.

2. **Declarations of Interest**

Members to declare the existence and nature of interests in items on the agenda in accordance with the adopted Code of Conduct.

Declarations should be entered on the form to be circulated with the attendance sheet and declared during this item. However, the existence and nature of any interest that subsequently becomes apparent during the course of the meeting must be disclosed immediately. If the interest is not registered, Members must notify the Monitoring Officer of the interest within 28 days.

Members are also reminded of the need to declare predetermination on any matter.

If Members are unsure about whether or not they have an interest, or about its nature, they are strongly advised to seek advice from officers prior to the meeting.

3. **Minutes**

To consider the minutes of the meeting held on 5 July 2017. (Item 3/ Page 1)

4. **Refresh of the Arrangements for dealing with complaints against Councillors**

To consider a report from Democratic Services. (Item 4/Page 1)

5. **DCLG Consultation on the Disqualification Criteria for Councillors and Mayors**

To consider a report from Democratic Services. (Item 5/ Page 1)

6. **Council Agenda – Wednesday 15 November 2017 – Standards Committee for Warwick District**

To consider a report from Democratic Services as set out on the Council agenda for 15 November 2017:

Council Agenda Item 11 – Standards Committee for Warwick District.

**You are requested to bring your copy of that agenda to this meeting.
(Circulated separately)**

Published Monday 6 November 2017

General Enquiries: Please contact Warwick District Council, Riverside House, Milverton Hill, Royal Leamington Spa, Warwickshire, CV32 5HZ.
Telephone: 01926 456114
E-Mail: committee@warwickdc.gov.uk

For enquiries about specific reports, please contact the officers named in the reports.
You can e-mail the members of the Committee at
standardscommittee@warwickdc.gov.uk

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456114

STANDARDS COMMITTEE

Minutes of the meeting held on Wednesday 5 July 2017 at the Town Hall, Royal Leamington Spa at 6.00pm.

Present: Councillors; Bromley, Mrs Bunker, Cooke, Davies, Mrs Falp, Gallagher, Gill, Mrs Hill and Howe.

Also Present:

Independent Persons: Mr R Meacham and Mr R Tomkinson.

Officer: Mr G Leach (Democratic Services Manager & Deputy Monitoring Officer).

1. **Apologies and Substitutes**

- (a) There were no apologies for absence.
- (b) Councillor Mrs Falp substituted for Councillor Margrave.

2. **Appointment of Chairman of the Committee**

It was proposed by Councillor Cooke, duly seconded; and

Resolved that Councillor Davies be appointed Chairman of the Committee for the ensuing municipal year.

3. **Appointment of Vice-Chairman of the Committee**

It was proposed by Councillor Cooke, duly second; and

Resolved that Councillor Mrs Bunker be appointed Vice-Chairman of the Committee for the ensuing municipal year.

4. **Declarations of Interest**

Minute 6 - Standards Committee of Warwick District

Councillors; Bromley, Mrs Bunker, Cooke, Davies, Mrs Falp, Mrs Hill and Howe also declared that they were either a Parish or Town Councillor of a Parish or Town Council within Warwick District.

5. **Minutes**

The minutes of the meeting held on 10 August 2016 were taken as read and signed by the Chairman as a correct record.

6. **Standards Committee of Warwick District**

The Committee received an update from the Democratic Services Manager & Deputy Monitoring Officer on the proposals for a Standards Committee of Warwick District.

Warwick District Council had sought to form a Joint Standards Committee for Warwick District with all the Parish and Town Councils. This had never formally come into being and this had been reviewed by officers.

The responsibility under the Localism Act was for the District Council to have sufficient arrangements in place. There was no requirement for this to involve Parish/Town Councils.

The single primary area of benefit from a joint committee with Parish and Town Councils was that those councils which had agreed to be part of the joint committee could sit and vote at hearings concerning the conduct of Councillors who were Members of any of those participating Parish and Town Councils. However for those instances when the Councillor was not a Member of a participating Parish or Town Council, those cases would need to be considered by a separate Standards Committee made up of Warwick District Councillors. All other matters would need to remain within the remit of Warwick District Council, i.e. the procedures for considering complaints and revising the Code of Conduct for the District Council.

Baddesley Clinton Parish Council, Weston-under-Wetherley Parish Council, Leek Wootton Parish Council and Radford Semele Parish Council indicated that they would like to join the Committee but Warwick District Council understood that they were yet to pass the resolution to join the Standards Committee of Warwick District and amend their standing orders to reflect this.

Eathorpe, Hunningham, Offchurch and Wappenbury Parish Council had declined to join the Standards Committee of Warwick District.

Officers had sought to ensure each Parish/Town Council understood the power they were delegating to the Joint Committee and for this reason they had provided a template report from them to use.

During the subsequent review of the proposal it was clear Officers had not taken into consideration, and therefore not provided guidance to Members, regarding the liability for decisions taken by the Joint Committee, support costs for the joint committee, or expenses for Members and how these should be shared. The District Council needed to take these issues into consideration because if a Joint Committee was established for those who wished to participate it would need to appoint its own Standards Committee as well to consider all other cases from Authorities not participating in the Joint Committee as well as the administrative functions outlined earlier.

The District Council would also need to be mindful, if the two Committees were established, of ensuring clarity on the role of each Committee both for Councillors and the public, along with ensuring consistency of training and decision making. Most of this could be overcome by ensuring the District Council appointed the same Councillors to both Committees and training was held at the same time.

In addition there was a question on the representation of the Parish/Town Councils on the Joint Committee. At present, the proposal was for a

Committee of 15. This would be 11 District Councillors and 4 Parish/Town representatives. While no Parish or Town Council had questioned this there was a question on the legitimacy of the Joint Committee if all parties were not represented by individual membership and this could lead to a challenge on decisions of a Joint Committee. This was because, to the best of officers' knowledge, no other Joint Standards Committee had been introduced with Parish and Town Councils at any other District Authorities.

In addition to these points, officers recognised the low workload of the Standards Committee and it was felt to be a disproportionate time and effort to establish a Joint Committee to the level of detail required.

The Committee should be aware that there was likely to be dissatisfaction with the revised proposal from Parish and Town Councils. However, the Committee should be aware of the limited number of code of conduct complaints that had been made since 2015 and that none of these had progressed to an investigation.

This Council was committed to engaging with Parish and Town Councils and the proposal continued to provide this opportunity and as an interim provided the role for nominated Councillors for ensuring a strong voice for the Parish and Town Councils as part of the consultation process. It should, however, be noted that co-opted members to a Committee (excluding few specific circumstances with Scrutiny) could not be voting members.

A further nomination had been received from Cubbington Parish Council, however this Councillor has since resigned from the Parish.

The Committee recognised the challenges that a joint committee provided and was keen to ensure that the importance of continued engagement with Parish/Town Councils was stressed to them when they were informed.

Resolved that

- (1) Parish and Town Councils in Warwick District and Warwickshire Association of Local Councils (WALC) are consulted up to Monday 25 September on the proposals that;
"Warwick District Council intends not to proceed with a Joint Standards Committee with all Parish and Town Councils. In its place, Warwick District Council commits that any revisions to the Code of Conduct or associated processes will be consulted on with all Parish and Town Councils for at least six weeks. These processes will also be presented to a meeting of the WALC Warwick Area Committee for discussion. Following the consultation, a response will be provided to each of the comments made and circulated to all Parish/Town Councils in Warwick District. Warwick District Council will also commit, so long as it is reasonably practicable, that at

least three Members of its Standards Committee will be both District and Parish/Town Councillors (dual hatters) so they are aware of the nature of this role. That all Parish and Town Councils will continue to be sent a copy of the agenda for the Standards Committee meeting and will be alerted (via email) as soon as the draft minutes are available on line. That the Chair of any Code of Conduct hearing panel involving a Parish/Town Councillor will attend the relevant Parish/Town meeting that considers any proposed sanction from the hearing to respond to questions from the relevant Council."; and

- (2) that, as an interim measure, this Council recommends that Warwick District Council confirms the above arrangements and makes any necessary amendments to the Constitution, up to 16 November 2017 when it will consider the outcome of the consultation but that during this time Councillors Guest (Warwick Town Council), Smart (Whitnash Town Council) and Mrs Gabitas (Bishop's Tachbrook Parish Council) be appointed as non-voting co-optees to the Committee.

7. Register of Code of Conduct Complaints


The Committee received the register of complaints regarding code of conduct complaints made since May 2015. The complete log had been reported to enable members to consider the new format that they had requested previously.

The Chairman was mindful that all members of the Committee had received a detailed document from a member of the public about one of the complaints that had been considered and closed. The Committee was mindful the matter had been closed and the Local Government Ombudsman had also considered the matter and taken no action. However they were of the opinion that following two years of the current arrangements officers should consider these, along with the comments from the member of the public, to see if any of the information/processes could or should be updated.

Resolved that

- (1) the log of complaints be noted; and
- (2) the Democratic Services Manager & Deputy Monitoring Officer reviews the current procedures for handling complaints about the conduct of Councillors and brings forward any proposed revisions to the next meeting of the Committee.

(The meeting ended at 6.30 pm)

 Standards Committee 14 November 2017		Agenda Item No. 4
Title	Refresh of the Arrangements for dealing with complaints against Councillors	
For further information about this report please contact	Graham Leach, Democratic Services Manager & Deputy Monitoring Officer graham.leach@warwickdc.gov.uk 01926 456114	
Wards of the District directly affected	None	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?	No	
Date and meeting when issue was last considered and relevant minute number	Standards Committee 9 September 2014 Minute 10	
Background Papers		

Contrary to the policy framework:	No
Contrary to the budgetary framework:	No
Key Decision?	No
Included within the Forward Plan? (If yes include reference number)	No
Equality Impact Assessment Undertaken	Yes/No (If No state why below)

Officer/Councillor Approval		
Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive	3/11/2017	Andrew Jones
Head of Service		
CMT		
Section 151 Officer	3/11/2017	Mike Snow
Monitoring Officer	3/11/2017	Andrew Jones
Finance	3/11/2017	Jenny Clayton
Portfolio Holder(s)	3/11/2017	Andrew Mobbs & Michael Coker
Consultation & Community Engagement		
Final Decision?		Yes
Suggested next steps (if not final decision please set out below)		

1. **Summary**

- 1.1 The report brings forward the arrangements for dealing with complaints against Councillors with a few minor amendments to improve clarity.

2. **Recommendation**

- 2.1 The revised arrangements for dealing with complaints against Councillors, as set out at Appendix 1 be approved (text in ***bold italics*** are additions and **highlighted struck through** text is to be removed).
- 2.2 That any minor amendments to the procedures, to clarify the wording, are delegated to the Monitoring Officer in consultation with Chairman of the Standards Committee.
- 2.3 That the Committee recommends to Council that it confirms the following delegations:
- (i) The Monitoring Officer be authorised, in consultation with the Chairman of the Standards Committee and/or the Independent Person for the Council (as appropriate), the right to depart from these arrangements where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter;
 - (ii) The Monitoring Officer, in consultation with an Independent Person for the Council, be authorised to determine if a complainants details can be withheld in line with agreed criteria established by the Standards Committee;
 - (iii) The Monitoring Officer be authorised to determine, for complaints about the conduct of Councillors, that:
 - No further action be taken where complaints fall outside the Code or do not justify investigation and there is no informal resolution;
 - Resolution by informal action is acceptable to both the complainant and the Councillor;
 - Any allegations of criminal matters are referred to the Police;
 - The complaint is referred for investigation if the criteria defined by the Standards Committee is met.
 - (iv) The Monitoring Officer be authorised to appoint an investigating officer to undertake an investigation regarding the conduct of a Councillor;
 - (v) The Monitoring Officer, in consultation with an Independent Person, be authorised , following the conclusion of an investigation to determine if either
 - (a) No further action be taken
 - (b) A Local resolution be sort
 - (c) The matter be referred for a hearing;
 - (vi) The Monitoring Officer, in consultation with an Independent Person, be authorised , following the conclusion of an investigation, to determine that a matter progresses to a hearing if the Councillor refuses to comply with the suggested local resolution.

- 2.4 That, following adoption, the Monitoring Officer arranges a briefing session on these procedures for all District Town and Parish Councillors, in early 2018 to raise awareness.

3. Reasons for the Recommendation

- 3.1 At the meeting of the Standards Committee in July 2017 the Committee asked the Monitoring Officer to review the current arrangements for dealing with complaints against Councillors. This review has been undertaken by the Democratic Services Manager & Deputy Monitoring Officer in consultation with the Monitoring Officer.
- 3.2 The Committee is entitled to approve this document under Council procedure rule 35 which enables each Committee to produce its own procedure rules and job roles that build upon and enhance the Council Procedure Rules and these will be annexed to, but not form part of, the Constitution.
- 3.3 No fundamental changes have been proposed to the arrangements but clarifications have been suggested to make the intention of the arrangements clearer, mainly through the re-ordering of paragraphs within the document and the addition of words. Therefore it is proposed that any future minor changes of this nature should be delegated to the Monitoring Officer in consultation with the Chairman of the Committee
- 3.4 The review has also only focused on the procedure for handling a complaint up to the authorisation of an investigation. This is with an exception of amending the composition of the Hearing Panel (but this should be agreed subject to the decision of the Council with regard to the future of the Joint Standards Committee). This is because since these arrangements were last reviewed, no complaint has passed to this stage. Therefore, it was considered any review of this aspect should be undertaken if these aspects are ever enacted. For this reason, the appendices have not been brought to the Committee.
- 3.5 During the review of this work, it became apparent that a number of delegations within the arrangements from 2012 were never included within the Scheme of Delegation in the Constitution. Therefore, these delegations to the Monitoring Officer are sought for confirmation from Council to enable normal working practice to continue.
- 3.6 Officers are mindful of the report to be considered by Council on 15 November 2017, which commits the Council to consulting on any revisions to these proposals. However, the proposals within this report do not alter the current arrangements but clarify the approach used by the District Council. Therefore, it is not felt that consultation is required in this instance.
- 3.7 The Monitoring Officer and Chairman of the Standards Committee feel it would be beneficial to hold a course explaining the procedures to Councillors in case a complaint is made about them and what should be expected of both them and from the process.

4. Policy Framework

4.1 Fit for the Future (FFF)

The Council's FFF Strategy is designed to deliver the Vision for the District of making it a Great Place to Live, Work and Visit. .

The FFF Strategy has 3 strands – People, Services and Money and each has an external and internal element to it. However this report does not directly contribute to them.

4.2 Supporting Strategies

Each strand of the FFF Strategy has several supporting strategies but in this instance this does not directly impact on these.

4.3 Changes to Existing Policies - The report brings forward proposals for confirmation of delegations within the Council's Constitution, but no changes to fundamental policies.

4.4 Impact Assessments – No impact assessment has been undertaken because the report does not bring forward any new or significant policy changes proposed in respect of Equalities.

5. Budgetary Framework

5.1 The report does not impact on either the Budget or Budgetary Framework of the Council.

6. Risks

The main risks associated with the report relate to the delegations to the Monitoring Officer and seeking confirmation from Council. These can be evidenced as being agreed in 2012 but officers are of the opinion for the sake of clarity these should be confirmed by Council.

7. Alternative Option(s) considered

7.1 No alternative options have been considered as the report is brought forward at the request of the Committee.



Arrangements for dealing with complaints against Councillors

Mission Statement: "To promote and maintain high standards of conduct and governance within the Council and the Parish and Town Councils within the District."

Adopted by Warwick District Council **Standards Committee** on ?? 25 February 2015 and came into force from ?? 11 May 2016.

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Revisions of these arrangements

1 Context

These arrangements are required under the Localism Act 2011. They set out how a complaint about an elected or co-opted member of either Warwick District Council or of a Parish/Town Council within this District will be considered and determined.

Under the Localism Act, Warwick District Council has appointed two Independent Persons. The Independent Persons, having no other direct link with the Councils within the District, are appointed to provide a clear impartial view of any matter being considered. The view of one of these Independent Persons will be sought by the District Council before any decision is taken at each stage of the process. The other of the two Independent Persons will be available for consultation by the Councillor(s) about whom a complaint has been made.

The responsibility for determination of complaints is a matter for Full Council. They have delegated the responsibility to the Monitoring Officer and Standards Committee. Normally, a complaint will be resolved by the Monitoring Officer or a Hearing Panel of the Standards Committee. This does not exclude the possibility, in exceptional circumstances, for either the Standards Committee or the Council to determine a case.

2 The Code of Conduct

The Council has adopted a Code of Conduct for Councillors, which is attached as Appendix One to these arrangements. The Code of Conduct is displayed on the Council's website and can be seen on request at Riverside House.

Each Parish/Town Council in the District is also required to adopt a Code of Conduct and they have been recommended to adopt the Code of Conduct used by Warwick District Council. These should be displayed on the Parish/Town Council's website but a copy can also be requested from the relevant Parish/Town Clerk.

Councillors of the authorities are bound by the Code of Conduct for that Council and must abide by its requirements, even if they have not specifically signed up to it.

3 Making a complaint

A complaint may be made by completing the complaint form, which is available as Appendix 2 to this procedure, as a download from Warwick District Council's website or on request from Warwick District Council's Monitoring Officer.

The form can be sent either;

By email to: monitoringofficer@warwickdc.gov.uk; or

By post to: The Monitoring Officer, WDC, Riverside House, Royal Leamington Spa CV32 5HZ

The Monitoring Officer is a senior officer of Warwick District Council who has the statutory responsibility for maintaining the register of Councillors' interests and

who is responsible for administering the system in respect of complaints of Councillor misconduct.

The complainant should provide their name and a contact address or email address, so that the receipt of the complaint can be acknowledged and the complainant informed of its progress.

In the interests of fairness and natural justice, this Council believes Councillors who are complained about have a right to know who has made the complaint. We also believe they have a right to be provided with a summary of the complaint. A complainant's address and contact details will not be released without prior discussion with, and approval by the complainant. If the complainant has serious concerns about the release of their name and a summary, or details of the complaint, to other people they must complete the relevant section of the complaint form.

The Monitoring Officer is unlikely to withhold identity or the details of a complaint unless the complainant provides good reason to indicate that:

- they will be at risk of physical harm or intimidation if their identity is disclosed;
- they are an officer who works closely with the Councillor concerned and they will suffer a disadvantage to their employment or may lose their job if their identity is disclosed (officers should consult the Council's whistle-blowing procedure); or
- they suffer from a serious health condition leading to medical risks associated with their identity being disclosed.

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. The Monitoring Officer, in consultation with the Independent Person advising Warwick District Council, will consider the request alongside the substance of the complaint. The Monitoring Officer will then tell the complainant of the decision.

If the request for confidentiality is not to be granted the complainant will be allowed the option of withdrawing their complaint. It is important to understand that in certain exceptional circumstances where the matter complained about is very serious, the Monitoring Officer can proceed with an investigation or other action and disclose the complainant's name even if they have expressly asked **us** not to.

The Monitoring Officer will acknowledge receipt of the complaint within 5 working days of receiving it, and will keep all parties informed of the progress of the complaint.

The Monitoring Officer will inform the following people that a complaint has been made together with the complainant's name and a summary of the complaint:

- the Councillor(s) who the complaint is about; and
- the Parish or Town Clerk (if applicable)

When the complaint relates to a Warwick District Councillor the Monitoring Officer will also notify the relevant Political Group Leader so they are aware of the matter.

Warwick District Council would normally expect, unless there are exceptional circumstances, a complaint to be made within 3 months of the potential failure of the Code of Conduct occurring. Where a complaint is received outside this time limit the Monitoring Officer will consult with both the Chairman of the Standards Committee and one of the Independent Persons as to whether the complaint should progress.

It should also be noted that if a complainant seeks to withdraw the complaint at any stage, Warwick District Council reserves the right to continue with the determination of a complaint if the Monitoring Officer considers that it is in the public interest to do so.

4 Procedure once a complaint has been made

There are three different types of complaint:

- (a) from a Member of the public, or an elected member of another authority about a Councillor;
- (b) from an employee of the Council about a Councillor; and
- (c) from a Councillor about a fellow Councillor of the same authority.

In the case of a complaint by an employee about a Councillor, the Monitoring Officer will, before taking any further steps, expect there to have been a meeting between the Chief Executive, the Councillor and their Group Leader to discuss the complaint to try and resolve it informally. ***(The Councillor is permitted to bring another person with them to this meeting, so long as they notify the other parties of this and the persons name at least 12 hours before the meeting)***

In the case of a complaint by a Councillor about a fellow Councillor the Monitoring Officer will, before taking any further steps, expect there to have been a meeting between the two Councillors and their relevant Group Leader(s) to discuss the complaint to try and resolve it informally.

If in these two cases a meeting has not taken place the Monitoring Officer will expect an explanation as to why this has not occurred. If a meeting has taken place, it will not exclude the Monitoring Officer also trying this approach as a local resolution.

After any such meetings the Monitoring Officer will review every complaint received and, in consultation with one of the Independent Persons, will consider the following options:

- No further action - Where complaints fall outside the Code or **does** not justify investigation and there is no **reasonable** informal resolution;
- **Informal resolution** - The complaint **can be** resolved by informal action **which** is acceptable to both the complainant and the Councillor;
- **Reference to the Police** - Any allegations of criminal matters are referred to the Police;
- **Referred for investigation** - The complaint is referred for investigation if the criteria listed below are met.

The Monitoring Officer **always may** seeks to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the Councillor accepting that their conduct was unacceptable and offering an apology, mediation between the parties through one of the Independent Persons, or any other remedial action that is considered appropriate.

Where the Councillor concerned, or the Council, makes a reasonable offer of local resolution, but the complainant is not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

A complaint will only be referred for investigation if the following criteria are met;

- it is serious enough, if proven, to justify the costs of an investigation; **or**
- it is part of a continuing pattern of less serious misconduct that is unreasonably disrupting the business of the Council and there is no other avenue left to deal with it; **and in either of these cases**
- the conduct complained of occurred within 3 months of the date the complaint was received, unless there are exceptional circumstances.

The Monitoring Officer will not normally refer a complaint for investigation where it falls within one or more of the following categories

- it is believed it to be malicious, relatively minor, or “tit-for-tat”;
- it is the same as, or is substantially similar to, a complaint that has already been the subject of an investigation or inquiry and there is nothing further to be gained by any investigation;
- it concerns acts carried out in the Councillor’s private life, when they are not carrying out the work of their Council or have not misused their position as a Councillor;
- it appears that the complaint is really about dissatisfaction with a Council decision; or
- there is not enough information available to justify a decision to refer the matter for investigation.

This decision will normally be taken within 14 days of receipt of the complaint. When the Monitoring Officer has taken a decision, they will inform the complainant of this and the reasons for that decision.

Where the Monitoring Officer requires additional information in order to come to a decision, they may request information from the complainant, Councillor(s) against whom the complaint is directed, or inspect publicly available information.

If the complaint identifies criminal conduct or breach of other regulation(s) by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies. Where a breach may relate to the work of a Councillor when acting at more than one authority, the Monitoring Officer would liaise with appropriate officers at the relevant authorities.

5 The conduct of the investigation

If the Monitoring Officer decides that a complaint merits formal investigation, they will appoint an Investigating Officer.

The Investigating Officer will be another senior officer of Warwick District Council, an officer of another authority or an external investigator. The Investigating Officer will meet with the complainant to understand the nature of the complaint so that they can explain their understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

The Investigating Officer will normally write to the Councillor against whom the complaint is made and provide them with a copy of the complaint, and ask the Councillor to provide their explanation of events, and to identify what documents they need to see and who they need to interview.

In exceptional cases, where it is appropriate to keep the complainant's identity confidential or where the disclosure of details of the complaint to the Councillor might prejudice the investigation, the Monitoring Officer can redact appropriate information from the papers given to the Councillor, or delay notifying the Councillor until the investigation has progressed sufficiently.

The intention will be that any investigation should be concluded within 40 working days of appointment of the Investigating Officer.

At the end of their investigation, the Investigating Officer will produce a draft report and will send copies of that report, in confidence, to the complainant, the Councillor concerned, and the Monitoring Officer. This is to check factual accuracies and all parties will be given no more than two weeks to respond.

The final report will then be passed to the Monitoring Officer for consideration.

The procedure for undertaking investigations of misconduct complaints is attached as Appendix Two to these arrangements.

6 What happens at the conclusion of the investigation?

Within 10 working days of receiving the final report the Monitoring Officer, after consultation with the Independent Person advising Warwick District Council, will determine what happens next, given that there are two possibilities:

- 6(a) the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct.

If the Monitoring Officer is satisfied, after consultation with the Independent Person, that the Investigating Officer's report is sufficient, the Monitoring Officer will write to the complainant and to the Councillor concerned and explain that no further action is required.

If the Monitoring Officer, after consultation with the Independent Person, is not satisfied that the investigation has been conducted properly, he will ask the Investigating Officer to reconsider their report.

- 6(b) The Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct.

The Monitoring Officer will review the Investigating Officer's report, in consultation with the Independent Person, and will then either seek local resolution or pass it to a Hearing Panel for determination.

If the Monitoring Officer, after consultation with the Independent Person, is not satisfied that the investigation has been conducted properly, he will ask the Investigating Officer to reconsider their report.

6.1 Local Resolution

In such a case, the Monitoring Officer, following consultation with the Independent Person, will contact the complainant with a proposed fair resolution which also helps to ensure higher standards of conduct for the future.

Such resolution may include the Councillor accepting that their conduct was unacceptable and offering an apology, and/or other remedial action by the Council, and will be required to be completed within a set time period.

If the Councillor complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee and **if appropriate relevant** the Parish/Town Council **or District Council Group Leader** for information, but will take no further action.

If a complainant is not agreeable to the proposed local resolution, but the Councillor is willing to accept this, the complaint will not be allowed to progress to a Hearing Panel.

If the Councillor refuses to comply with the suggested resolution the Monitoring Officer will refer the matter for a hearing by the Hearing Panel.

The Monitoring Officer's report to the Hearing Panel will include the details of the attempted local resolution and why this was not successful.

6.2 Hearing Panel

The Hearing Panel is a Sub-Committee of Warwick District Council's Standards Committee.

A Hearing Panel will be arranged when the Monitoring Officer, after consultation with one of the Independent Person, considers that:

- local resolution is not appropriate, or
- the Councillor concerned is not prepared to undertake any proposed remedial action.

The Panel will comprise of 5 members of the Standards Committee. It will consist of Councillors drawn from at least 2 different political parties. ~~For complaints against District Councillors there will be at least one Parish/Town Councillor on the Panel and for complaints against Town/Parish Councillors there will be at least one District Councillor on the Panel.~~ Subject to those requirements, The Hearing Panel is

appointed by the Monitoring Officer in Consultation with the Chairman of the Standards Committee.

Warwick District Council has agreed a procedure for local hearings, which is attached as Appendix 3 to these arrangements.

The Monitoring Officer will conduct a Pre-hearing, requiring the Councillor to give their response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing. The Chairman, or Vice Chairman, of the Standards Committee will attend, as normally they will be the Chairman of the Hearing Panel. This is to issue directions as to the manner in which the Hearing Panel meeting will be conducted.

Following the Pre Hearing, all parties relevant to the complaint will be written to and informed of the outcome of that meeting and the process for the Hearing. This will also be set out within the agenda to the Hearing.

If the Councillor who the investigation is about does not engage in this process this will be considered as a breach of the Code of Conduct in itself, and reported directly to the Hearing Panel for them to determine and issue sanctions for.

The Monitoring Officer will present the Investigating Officer's report to the Hearing Panel which will conduct a hearing before deciding whether the Councillor has failed to comply with the Code of Conduct and, if so, what action to take in respect of the Councillor.

(It should be noted that the Standards Committee and Hearing Panels operate under delegated authority from Full Council. Therefore, if it was minded to do so, either the Standards Committee or Full Council could undertake the Hearing into the Councillors behaviour. It is accepted that this would only occur in exceptional circumstances following discussion between the Monitoring Officer, Independent Person, Chairman of Standards Committee and, if the matter is to go to Council, the Chairman of the Council)

7 Action the Hearing Panel can take where a Councillor has failed to comply with the Code of Conduct

There are no lawful powers to suspend or disqualify the Councillor or to withdraw a Councillor's basic or special responsibility allowances.

The Hearing Panel may issue or recommend any sanctions or combination of sanctions that are relevant and proportionate to the matter. These might include any or all of the sanctions listed below. The lists are not meant to be exhaustive.

Any sanctions must include a time period for compliance by the Councillor and stipulate what would occur if the Councillor fails to comply within that time period.

For Warwick District Councillors, the range of appropriate sanctions might include any or all of the following:

- 7.1 Recommend to Council a vote of formal censure from the Council to confirm that the actions of the Councillor were unacceptable;
- 7.2 A requirement for the Councillor to apologise to the complainant(s) either in writing or in person. The apology must include an explanation for their action. The wording must have been approved in writing by the Chairman of the Standards Committee;
- 7.3 A recommendation to the Councillor's Group Leader (or in the case of ungrouped members and Group Leaders, a recommendation directly to Warwick District Council or to Committees) that they be removed from any or all Committees or Sub-Committees of Warwick District Council;
- 7.4 A recommendation to the Leader of Warwick District Council that the Councillor be removed from the Executive, or removed from particular Portfolio responsibilities, or if it is the Leader of the Executive, make this recommendation to Warwick District Council;
- 7.5 Training for the Councillor, arranged by the Monitoring Officer for which the Councillor will be required to pay half the cost subject to a maximum of one month Member's Allowance payment;
- 7.6 A recommendation to the Monitoring Officer (in consultation with Group Leaders) that the Councillor be removed from all outside appointments and working parties to which they have been appointed/nominated by Warwick District Council;
- 7.7 The withdrawal of facilities provided to the Councillor by Warwick District Council, such as a computer, car parking pass, iPad and Warwick District Council email account access;
- 7.8 The exclusion of the Councillor from Warwick District Council's offices or other premises, with the exception of meeting rooms as necessary for attending Warwick District Council, and Committee and Sub-Committee meetings, of which they are a member; or
- 7.9 A requirement for the Councillor to apologise to Warwick District Council (or the relevant Executive, Committee or Sub-Committee), in a meeting of that body. The apology must include an explanation for their action. The wording must have been approved in writing by the Chairman of the Standards Committee.

Parish and Town Councils

When the case relates to the conduct of a Parish/Town Councillor, the Hearing Panel will determine if a breach has occurred and recommend appropriate and proportionate sanctions for that Parish/Town Council to approve.

For Parish/Town Councillors the range of possible appropriate sanctions that could be recommended to the Parish/Town Council include:

- 7.10 A vote of formal censure from the Parish/Town Council to confirm that the actions of the Councillor were unacceptable;

- 7.11 A requirement for the Councillor to apologise to the complainant(s). The apology must include an explanation for their action. The wording must have been approved in writing by the Chairman of the Standards Committee;
- 7.12 A recommendation to the Councillor's Group Leader (or in the case of ungrouped members and Group Leaders, a recommendation directly to the Parish/Town Council or to Committees) that they be removed from any or all Committees or Sub-Committees of the Council;
- 7.13 Training for the Councillor, to be arranged by the Parish/Town Council and for which the Councillor should be required to pay half the cost subject to a maximum of £100;
- 7.14 A recommendation to the Council that the Councillor be removed from all outside appointments and working parties to which they have been appointed/nominated by the Parish/Town Council;
- 7.15 The withdrawal of facilities provided to the Councillor by the Parish/Town Council, such as a computer and email access;
- 7.16 The exclusion of the Councillor from the Parish/Town Council's offices or other premises, with the exception of meeting rooms as necessary for attending the Parish/Town Council, and Committee and Sub-Committee meetings, of which they are a member; or
- 7.17 A requirement for the Councillor to apologise to the Parish/Town Council (or the relevant Committee or Sub-Committee), in a meeting of that body. The apology must include an explanation for their action. The wording must have been approved in writing by Chairman of the Standards Committee.

8 What happens after the Hearing Panel

As soon as reasonably practicable after the Hearing, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Hearing Panel, and send a copy to:

- the complainant;
- the Councillor the complaint was about;
- the Investigating Officer;
- any witnesses consulted as part of the investigation;
- if they have one, the Group Leader of the Councillor the complaint was about;
- the members of the Standards Committee;
- the Independent Persons;
- if appropriate, the relevant Parish/Town Council;
- the proper officer of any other authority the Councillor is a member of; and
- ensure that a copy is reported to Full Council.

The Monitoring Officer will make the decision notice available for public inspection and will report the minutes to the next convenient meeting of the Standards Committee and Warwick District Council.

Where a breach of the Code is found, a copy of the decision notice will be published; in a local newspaper; on Warwick District Council's website and such other publications the Panel considers are appropriate.

9 Appeals

There is no right of appeal for either the complainant or for the Councillor against a decision of the Monitoring Officer or of the Hearing Panel.

If a complainant feels that Warwick District Council has failed to deal with their complaint properly, they may make a complaint to the Local Government Ombudsman.

10 The Independent Persons

The Independent Persons are those who have applied for the post following advertisement of a vacancy and are then appointed by a positive vote from a majority of all the members of Warwick District Council.

They are invited to all meetings of the Standards Committee and expected to take part in the deliberations of the Committee but are not voting members of that Committee.

Before deciding on whether a complaint will be investigated, the Monitoring Officer will consult with one of the Independent Persons who will be involved at each subsequent stage of the proceedings.

If it is decided to appoint a Hearing Panel, the Independent Person will be invited to attend all its meetings. Their views will be sought and taken into consideration before the Hearing Panel takes any decision on whether the Councillor's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct. They do not, however, form part of the Panel, and will not be present when the Panel determines the case in private session and will not have a vote on the determination of the case

It should be noted that the other Independent Person may also attend a Hearing Panel to act in a supportive role for the Councillor who the complaint is about.

The following disqualifications prevent a person from being an Independent Person (either at the time of appointment or during their time in the role):

- (1) employment by, or Membership (including co-opted) of, Warwick District Council in the last five years or an independent member of Warwick District Council's Standards Committee within the last five years;
- (2) any bankrupt or person who has made a composition or arrangement with creditors which is extant;

- (3) having, within five years of the appointment, a conviction for an offence resulting in a sentence of imprisonment (whether or not suspended) for a period of not less than three months without the option of a fine;
- (4) a disqualification for being elected or being a member of an authority under the Representation of the People Act 1983 (corrupt electoral practices);
- (5) being an officer of another local authority;
- (6) is or has been within the past 5 years, a member, co-opted member or Officer of a Parish/Town Council within Warwick District Council's area; or
- (7) being a relative of a Member or Officer of Warwick District Council or Parish/Town Council within Warwick District

For this purpose, "relative" means –

Spouse or civil partner;

Living with the other person as husband and wife or as if they were civil partners;

Grandparent of the other person;

A lineal descendent of a grandparent of the other person;

A parent, sibling or child of a person within paragraphs (1) or (6);

A spouse or civil partner of a person within paragraphs (1) or (6); or

Living with a person within paragraphs (1) or (6) as husband and wife or as if they were civil partners.

11 Policy for Handling 'Unreasonable complainant behaviour' and 'Unreasonably persistent complainants'

Generally, dealing with a complaint is a straightforward process but in a minority of cases people pursue their complaints in a way which can either impede the investigation or can have significant resource issues for authorities. These actions can occur either while the complaint is being investigated, or once an authority has concluded the complaint investigation.

For this reason the Council uses the terms 'unreasonable complainant behaviour' and 'unreasonably persistent complainants'. The definition for these is set out below:


"Unreasonable and unreasonably persistent complainants are those complainants who, because of the frequency or nature of their contacts with an authority, hinder the authority's consideration of their, or other people's, complaints."

The Council has an established practice on this and it is set out at Appendix 4 to this document.

12 Revision of these arrangements

The Standards Committee may, by resolution, agree to amend these arrangements.

The Council has delegated to the Monitoring Officer, in consultation with the Chairman of the Standards Committee and/or the Independent Person (as appropriate) the right to depart from these arrangements where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.

 Standards Committee 14 November 2017		Agenda Item No. 5
Title	DCLG Consultation on the Disqualification Criteria for Councillors and Mayors	
For further information about this report please contact	Graham Leach Democratic Services Manager & Deputy Monitoring Officer graham.leach@warwickdc.gov.uk 01926 456114	
Wards of the District directly affected	None	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?	No	
Date and meeting when issue was last considered and relevant minute number		
Background Papers	DCLG consultation paper on Disqualification criteria for councillors and mayors	

Contrary to the policy framework:	No
Contrary to the budgetary framework:	No
Key Decision?	No
Included within the Forward Plan? (If yes include reference number)	No
Equality Impact Assessment Undertaken	No
The report sets out a proposed response to a consultation on a national policy.	

Officer/Councillor Approval		
Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive	30/10/2017	Andrew Jones
Head of Service		
CMT		
Section 151 Officer	31/10/2017	Mike Snow
Monitoring Officer	30/10/2017	Andrew Jones
Finance	31/10/2017	Jenny Clayton
Portfolio Holder(s)	30/10/2017	Andrew Mobbs
Consultation & Community Engagement		
Final Decision?		Yes
Suggested next steps (if not final decision please set out below)		

1. **Summary**

- 1.1 The report brings forward a proposed response from this Council on the consultation by the Department for Communities & Local Government (DCLG) on the Disqualification Criteria for Councillors and Mayors.

2. **Recommendation**

- 2.1 That the Committee approves the response to the proposed new criteria for the Disqualification Criteria for Councillors and Mayors, as set out at Appendix 1 to the report.

3. **Reasons for the Recommendation**

- 3.1 The Department for Communities and Local Government is undertaking a public consultation on revising the criteria for the Disqualification Criteria for Councillors and Mayors.
- 3.2 It is considered appropriate that the Council makes a formal response to this consultation document (set out at Appendix 2 to the report) through its Standards Committee under its duty within the Constitution to promote and maintain high standards of conduct by members of the Council.
- 3.3 The proposals are sound and brought forward to further enhance the assurance the public can have in elected officials in their role as community leaders. The only associated concerns are around how these would be enforced to ensure they are adhered to. These proposals come forward with an implied presumption, in the same way as at present, that there is a duty for the Councillor to act appropriately and either not stand for election or resign if they have breached the statutory restrictions on being an elected representative. However the role of Councillor is not considered a reportable one, i.e. it has to be declared if a Councillor is arrested (the Police then have a duty to notify the relevant organisation). This can potentially put a Council in a difficult position and in a worst case, invalidate a decision taken because the individual was no longer a Councillor.

4. **Policy Framework**

4.1 **Fit for the Future (FFF)**

The Council's FFF Strategy is designed to deliver the Vision for the District of making it a Great Place to Live, Work and Visit. To that end amongst other things the FFF Strategy contains several Key projects.

The FFF Strategy has 3 strands – People, Services and Money and each has an external and internal element to it. The table below illustrates the impact of this proposal if any in relation to the Council's FFF Strategy.

FFF Strands		
People	Services	Money
External		
Health, Homes, Communities	Green, Clean, Safe	Infrastructure, Enterprise,

		Employment
<u>Intended outcomes:</u> Improved health for all Housing needs for all met Impressive cultural and sports activities Cohesive and active communities	<u>Intended outcomes:</u> Area has well looked after public spaces All communities have access to decent open space Improved air quality Low levels of crime and ASB	<u>Intended outcomes:</u> Dynamic and diverse local economy Vibrant town centres Improved performance/ productivity of local economy Increased employment and income levels
Impacts of Proposal		
The introduction of this proposal should enhance the public role of a Councillor and trust placed upon them in developing a cohesive community.	The introduction of this proposal would help to protect vulnerable people from harm.	Nil
Internal		
Effective Staff	Maintain or Improve Services	Firm Financial Footing over the Longer Term
<u>Intended outcomes:</u> All staff are properly trained All staff have the appropriate tools All staff are engaged, empowered and supported The right people are in the right job with the right skills and right behaviours	<u>Intended outcomes:</u> Focusing on our customers' needs Continuously improve our processes Increase the digital provision of services	<u>Intended outcomes:</u> Better return/use of our assets Full Cost accounting Continued cost management Maximise income earning opportunities Seek best value for money
Impacts of Proposal		
Nil	Nil	Nil

- 4.2 **Supporting Strategies** – This report does not relate to any of the supporting strategies within Fit for the Future.
- 4.3 **Changes to Existing Policies** – This report does not bring forward any proposals to amend Council Policies.
- 4.4 **Impact Assessments** – An equality impact assessment has not been undertaken because this is a response to a consultation document which, if implemented, would be the responsibility of the DCLG to undertake such an assessment.

5. Budgetary Framework

- 5.1 The report does not bring forward proposals that impact on either the Budgetary Framework or Budget.

6. Risks

- 6.1 There are no direct risks associated with the report as the Council is responding to Government consultation document. However, it is proposed that the Council responds highlighting some potential risks within the proposed new requirements.

7. Alternative Option(s) considered

- 7.1 The Committee could decide not to comment on the consultation however it is considered that it would be appropriate for them to do so with their responsibility under the Constitution to promote and maintain high standards of conduct by members of the Council.

- 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?**

This proposal is supported by Warwick District Council.

- 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?**

This proposal is not supported by Warwick District Council. This is because if there is such concern that the police of National Crime Agency apply to magistrates and the Court believes an individual poses a risk of harm to the public in the UK and/or children or vulnerable adults abroad then they should not be considered an appropriate individual for a public role. DCLG are reminded that the role of an elected representative could include contact with such individuals that they may pose a risk to and in some cases would require them to act in a safeguarding role.

- 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?**

This proposal is supported by Warwick District Council.

- 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?**

This proposal is supported by Warwick District Council.

- 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?**

Warwick District Council believes that this proposal will enhance its capabilities under Public Sector Equality Duties under the Equality Act 2010 by removing the risk from individuals who have been found in breach of such matters from being elected representatives.

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

DCLG should consider how these proposals would be enforced. At present, the disqualification of a candidate is a matter for challenge and, once a Councillor, it requires them to notify the Council about the matter.

DCLG may wish to consider amending the legislation which requires candidates to provide a signed statement from the local Police Authority that they do not have any criteria which would disqualify them from holding the public position.

In addition DCLG may wish to work with the electoral commission in providing guidance to political parties on the selection of candidates overall, with a view to them determining if a candidate is suitable based on a similar principle to that used for Hackney Carriage & Private Hire drivers within Warwick District.

"Would I allow my daughter or son, granddaughter or grandson, spouse, mother or father, or any other person I care for or any vulnerable person I know, to get into a vehicle with this person alone?"

"Would I trust this person with sensitive information? i.e. that my house is empty, that I am on holiday for the next two weeks, that children are alone in the house?"

The Council seeks confirmation that a similar proposal will be brought forward for Police and Crime Commissioners, MPs and Lords (sitting in public office). This is because while appropriate legislation covering local authorities has been set previously, the same level of due diligence has not always been applied to protect the legislature in a similar manner.



Department for
Communities and
Local Government

Disqualification criteria for Councillors and Mayors

Consultation on updating disqualification criteria for local authority members

September 2017
Department for Communities and Local Government



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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](#).