



Standards Committee Agenda

Wyre Borough Council
Date of Publication: 8 November 2017
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Standards Committee meeting on Thursday, 16 November 2017 at 6.00 pm in the Committee Room 2, Civic Centre, Poulton-le-Fylde

1. Apologies for Absence

2. Declarations of Interest

Members will declare any pecuniary or significant other interests they have in relation to the items on this agenda.

3. Minutes (Pages 1 - 4)

Confirmation of the Minutes of the meeting of the Committee held on 22 June 2017.

4. Social Media Policy for Councillors (Pages 5 - 12)

Report of the Monitoring Officer.

5. Consultation: Disqualification Criteria for Councillors (Pages 13 - 34)

Report of the Monitoring Officer.

6. Current Complaints: Summary (Pages 35 - 38)

Schedule prepared by the Monitoring Officer.

The Monitoring Officer will report verbally on the latest position with regard to the complaints listed and any issues arising from them.

7. Date of next meeting

The next scheduled meeting of the Committee is due to be held at 6pm on Thursday 15 March 2018.

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Standards Committee Minutes

The minutes of the Standards Committee meeting of Wyre Borough Council held on Thursday, 22 June 2017 at the Committee Room 2, Civic Centre, Poulton-le-Fylde.

Standards Committee members present:

Councillors Ian Amos, Marge Anderton, Barry Birch, Terry Lees, Paul Moon and Matthew Vincent

Apologies: None

Officers present:

Liesl Hadgraft, Head of Business Support and Monitoring Officer
Mary Grimshaw, Senior Solicitor and Deputy Monitoring Officer
Peter Foulsham, Scrutiny Officer

Also present: Barry Parsonage (Independent Person)

1 Election of Chairman for 2017/18

Councillor Barry Birch was elected as Chairman of the Committee for the 2017/18 municipal year.

2 Election of Vice-Chairman for 2017/18

Councillor Moon was elected as Vice Chairman of the Committee for the 2017/18 municipal year.

3 Declarations of Interest

Councillor Michael Vincent declared an Other Significant Interest in item 6 on the agenda, as he knew the identity of the subject member in complaint 2017/01. However, Councillor Michael Vincent took the view that this would not prejudice his judgement and he continued to play a full part in the meeting. He was reminded by the Senior Solicitor that that was a matter for him to decide.

4 Minutes

RESOLVED that the Minutes of the meeting of the Committee held on 16 March 2017 be confirmed as a correct record.

Current Complaints: Summary

The Monitoring Officer submitted a schedule summarising complaints of alleged breaches of the Council's Code of Conduct which were currently being processed or had been completed since the last report to the Standards Committee. Ms Hadgraft said that brief details of each of the complaints were included in the schedule. She provided further information to the Committee at the meeting, as follows:

Ref: 2016/04

The Monitoring Officer advised that since the last meeting of the Standards Committee the circumstances surrounding this complaint had changed and as such it was not a matter for the Council. Consequently, no further action was to be taken.

Ref: 2016/18

This complaint has moved forward, the Monitoring Officer and the complainant having met with the subject member March. In addition, further information from both the complainant and subject member had been provided and this had been taken into consideration. Following discussions, the subject member agreed to apologise to the complainant. A letter was due to be sent to the complainant advising them of this. The matter would be concluded once the apology had been made.

Ref: 2017/01

This situation regarding this complaint had moved forward since the agenda and supporting papers for the current meeting had been published. The complaint related to the Cabinet minutes of the meeting of 7 September 2016, with particular reference to a comment that had been made at the meeting.

A meeting with the subject member confirmed that the minutes were, in fact, a true record of what had taken place at the Cabinet meeting. However it was agreed that the content could have been misleading and therefore some clarification to the wording of the Cabinet minutes was required. A report would be submitted to the next meeting of the Cabinet, for their information only, advising them that a footnote providing clarification would be added to the minutes of the meeting held on 7 September 2016. The Monitoring Officer anticipated that the complaint would be able to be closed at the next meeting of the Standards Committee.

Comment was made that in this case the action being taken could be viewed as unconstitutional. It also appeared that the committee was being used to deal with a matter that was not necessarily a breach of the Code of Conduct. Concern was expressed that the minutes of a meeting could be changed by this process and that might set a precedent, which was not desirable.

The Senior Solicitor confirmed that the proposed course of action was consistent with the council's Constitution. The Monitoring Officer added that there appeared not to have been an intentional breach of the Code so the matter would best be resolved by following the proposed course of action through to its conclusion. The Independent Person, Barry Parsonage, advised the committee that the subject member had offered a change in the wording which would be included in the report to the next Cabinet meeting.

A question was posed as to whether this was a matter in which the Chief Executive should be involved. Liesl Hadgraft confirmed that the Chief Executive would be taking the report to the Cabinet.

Another view was put forward that if the subject member and the complainants were supportive of the proposed course of action, which would correct the impression that was originally inadvertently given by the subject member, such an outcome would be in everyone's interests.

Following further discussion the committee noted the proposed process, with the Monitoring Officer to report the outcome to the next meeting of the Standards Committee.

Ref: 2017/02

The Monitoring Officer confirmed that the subject member had attended the required training as set out in the schedule, and this complaint was now concluded.

Ref: 2017/03

The Monitoring Officer had held an initial meeting with Barry Parsonage, an Independent Person. Following the application of a preliminary test, and taking into account other relevant information surrounding the circumstances, it was agreed that the subject member was not acting as a councillor at the time of the complaint.

RESOLVED:

That the summary of current complaints submitted by the Monitoring Officer and her verbal report on each of the complaints referred to in the meeting, be noted.

6 Training for Councillors

The committee discussed members' training and development needs and requested that the following actions be taken:

- (i) All councillors be reminded about the possible implications of using council systems in situations when they might not be seen to be acting in their role as a councillor, and

- (ii) The introduction of a protocol on the use of social media be explored and appropriate training arranged if necessary

7 Date of next meeting

The Committee noted that its next scheduled meeting was currently due to be held at 6pm on Thursday 16 November 2017.

The meeting started at 6.00 pm and finished at 6.52 pm.



Report of:	Meeting	Date	Item no.
The Monitoring Officer (Liesl Hadgraft)	Standards Committee	16 November 2017	4

Social Media Policy for Councillors
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1. Purpose of report

1.1 To enable the Committee to consider a proposed social media policy for Councillors.

2. Outcomes

2.1 More effective communication and public engagement and improved standards of behaviour by Councillors

3. Recommendations

3.1 That the contents of the proposed Social Media Policy for Councillors, attached as Appendix 1, be approved and that the Council be recommended to include it in Part 5 of the Constitution.

4. Background

4.1 When they are first elected, all Councillors are required to sign the Council's computer use policy which, although it refers to electronic communications on behalf of the Council, relates mainly to the use of Council equipment and systems. Some general guidance about social media has also been made available in the past, but the Council does not currently have a specific policy on the use of social media by Councillors.

5. Key issues and proposals

5.1 Obviously, social media has expanded hugely in recent years and its use by councillors is now much more prevalent. Both nationally and locally, complaints about comments made by councillors on social media platforms, often in response to comments made by members of the public,

are becoming more common. Many councils now have a social media policy.

- 5.2** In order to provide clearer guidance to Wyre Councillors and to be transparent about the Council's position, it is proposed that a policy be approved and made public. The inclusion of such a policy in the Constitution will also make it easier for this Committee to decide, if required to do so when dealing with a complaint, whether comments made on social media by a Councillor amount to a breach of the Code of Conduct.

Financial and legal implications	
Finance	None.
Legal	General legal issues to be considered when using social media are included in paragraph 4 of the proposed policy.

Other risks/implications: checklist

If there are significant implications arising from this report on any issues marked with a ✓ below, the report author will have consulted with the appropriate specialist officers on those implications and addressed them in the body of the report. There are no significant implications arising directly from this report, for those issues marked with a x.

risks/implications	✓ / x
community safety	x
equality and diversity	x
sustainability	x
health and safety	x

risks/implications	✓ / x
asset management	x
climate change	x
data protection	x

report author	telephone no.	email	date
Roy Saunders	01253 887481	roy.saunders@wyre.gov.uk	6/11/17

List of background papers:		
name of document	date	where available for inspection
None	-	-

List of appendices

Appendix 1: Social Media Policy

Arm/rg/sta/ccr/17/1611rs2

Wyre Council

Social Media Policy for Members

1. Purpose

Social Media is an incredibly powerful method of engagement which many Councillors now use as a platform to enhance their profile and communicate with the public. It allows you to open up new conversations with the people you represent, understand and respond swiftly to local concerns, coordinate campaigns, assist with casework and let your constituents know what you are doing as their local councillor, all at often a fraction of the cost of more traditional means of communication.

However, there can also be pitfalls and to help minimise any risk this policy sets out what you need to keep in mind whenever you use Social Media in your official role as a Wyre Councillor

2. What is Social Media?

This is a term used to describe websites and applications for social networking. Popular social media platforms include Facebook, Twitter, LinkedIn, YouTube, Flickr, Instagram, Snapchat, WhatsApp and blogs. On social media sites users share information, discuss opinions and build online communities and networks.

You may already use social media in a private capacity. Consider if you want to create a separate account for any “Councillor” related use such as a separate Twitter account or YouTube channel. However Facebook are now clamping down on what they consider to be ‘duplicate’ accounts therefore as a Facebook user you need to consider if you wish your account to be for private use only or used for public engagement.

This policy and the Code of Conduct for Members both only apply when you are acting in your official capacity as an Elected Member. However, you need to be aware that it may not always be apparent to a member of the public in which capacity you are commenting. This “blurred identity” may have implications if comments made in a private capacity are taken to be those of the Council itself or your political party.

Online impressions count, how you portray yourself online is very important. Consider carefully how you may appear to someone who doesn’t know you personally – Is your online profile reflective of who you are and what you represent? Use our [social media checklist for Councillors](#) and/or the attached diagram as a guide to help you develop your online presence.

3. Social Media and the Code of Conduct for Members

Certain sections of the Code of Conduct for Members will apply to your online activity in just the same way as they do to any other written or verbal communication. The key to whether the Code applies is whether you are (or even just appear to be) acting in your capacity as a Wyre Councillor rather than as a private individual.

When using any social media platform you should take particular care not to publish anything which might result in you breaching the Code of Conduct, taking care, in particular, to comply you comply with the general provisions and obligations set out in Part 1 of the Code of Conduct. In doing so, have regard to the following behaviours:

You should always treat others with respect – do not use social media to make personal attacks or indulge in rude, disrespectful or offensive comments.

You must comply with equality laws – take care that you do not publish anything which might be considered to be sexist, racist, ageist, homophobic or anti faith.

You must not bully or intimidate anyone – do not say anything that might be construed as bullying or intimidation whether the comments relate to a council employee, a fellow Councillor or anyone else.

You must not disclose confidential information – refrain from publishing anything you have received in confidence.

4. General legal considerations

There are no new or additional legal burdens when using social media but you are publishing to the web – it's written down and it's permanent so you need to bear the following in mind:

Libel – If you publish an untrue statement about a person which is damaging to their reputation then they may take a libel action against you. This may also happen if someone else publishes something libellous on your website which you know about and don't take prompt action to remove. A successful libel action can result in an award of damages against you.

Copyright – Publishing images or text on your site from a copyrighted source (e.g. photos or extracts from publications) without obtaining permission first is likely to breach copyright laws. Breaching copyright laws can result in damages being awarded against you.

Data Protection – Take care not to publish the personal data of individuals unless you have their specific permission.

Bias and Pre- determination – Whenever you are involved in making planning, licensing or other quasi-judicial decisions do not say anything on social media which suggests that you have already made up your mind before hearing all the evidence and arguments. Otherwise the decision may be at risk of being challenged and declared invalid.

Obscene material – Obviously you should avoid publishing anything on social media which anyone might consider obscene. Publication of obscene material is a criminal offence.

Harassment – it is a criminal offence to repeatedly pursue a campaign against someone where this is likely to cause alarm, harassment, nuisance or distress.

Electoral Periods - There are some additional duties around campaigning during elections. If you are intending to make comments on social media in the period leading up to an election check the Electoral Commission website for the latest detailed guidance before doing so.

5. Use of Social Media during Council Meetings

Use mobile devices sparingly, discreetly and with common sense at meetings. Take care to avoid extended periods of use which may give the impression that insufficient attention is being paid to the business of the meeting.

Do not use social media during quasi-judicial meetings or during confidential or exempt items of business.

Always ensure that devices are switched to silent during meetings and their use is not disturbing others.

6. Staying Out of Trouble – some Do's and Don'ts

Most pitfalls can be avoided if your online content is objective, balanced, informative and accurate.

Here are some tips to help you stay out of trouble:

Some Do's

- Set appropriate privacy settings for your blog or networking site (especially if you have a private non-political account)
- Where possible, consider keeping your personal and elected member profile on social networking sites separate and maintain appropriate professional boundaries
- Look out for defamatory or obscene posts from others on your site and remove them as soon as possible to avoid any impression that you condone such comments
- Be careful about any connection with service users who are vulnerable adults or children as this could be regarded as a safeguarding issue
- Ensure that you seek permission to post information from a copyrighted source or any personal data
- Take care not to give the impression that you have already made up your mind before hearing all the evidence and arguments if you are involved in any planning, licensing or other quasi-judicial decision
- Keep posts positive as evidence suggests these are more popular and likely to generate more support for your cause than negative or critical messages
- Set an example by engaging in healthy & respectful debate which will encourage others (especially young people) to adopt similar online behaviours
- Take care not to publish the personal data of individuals unless you have their specific permission.

Some Don'ts

- Post in haste, particularly if your judgement might be impaired (for example if you have consumed alcohol)
- Post comments that you would not be prepared to make face to face, or put in writing in a formal letter
- Use Council facilities for personal or political blogs

- Use social media to attack, insult, abuse, defame or make negative or discriminatory comments about anyone (including council staff, service users, or the Council itself)
- Publish confidential information which you have gained access to as a Wyre Councillor
- Represent your personal views, or those of any political party or specialist interest group you belong to, as being those of the Council
- Distribute any material which could be considered inappropriate, offensive, illegal or discriminatory
- Robust political debate with other politicians is fine from time to time but do not let it degenerate into personal attacks
- Forget to consider your wider audience, online posts may be read by younger people who could be distressed at messages which had been intended for their parents or close relatives
- Make excessive use of social media technology during Council or Committee meetings as this may give the impression you are not engaged in the business of the meeting
- Forget to consider that anything written online can be screenshot and posted publicly.

7. Finally...

Although you need to be aware of the potential risks most Councillors using Social Media engage with the public in an entirely constructive way without ever running foul of either the Code of Conduct or the Law.

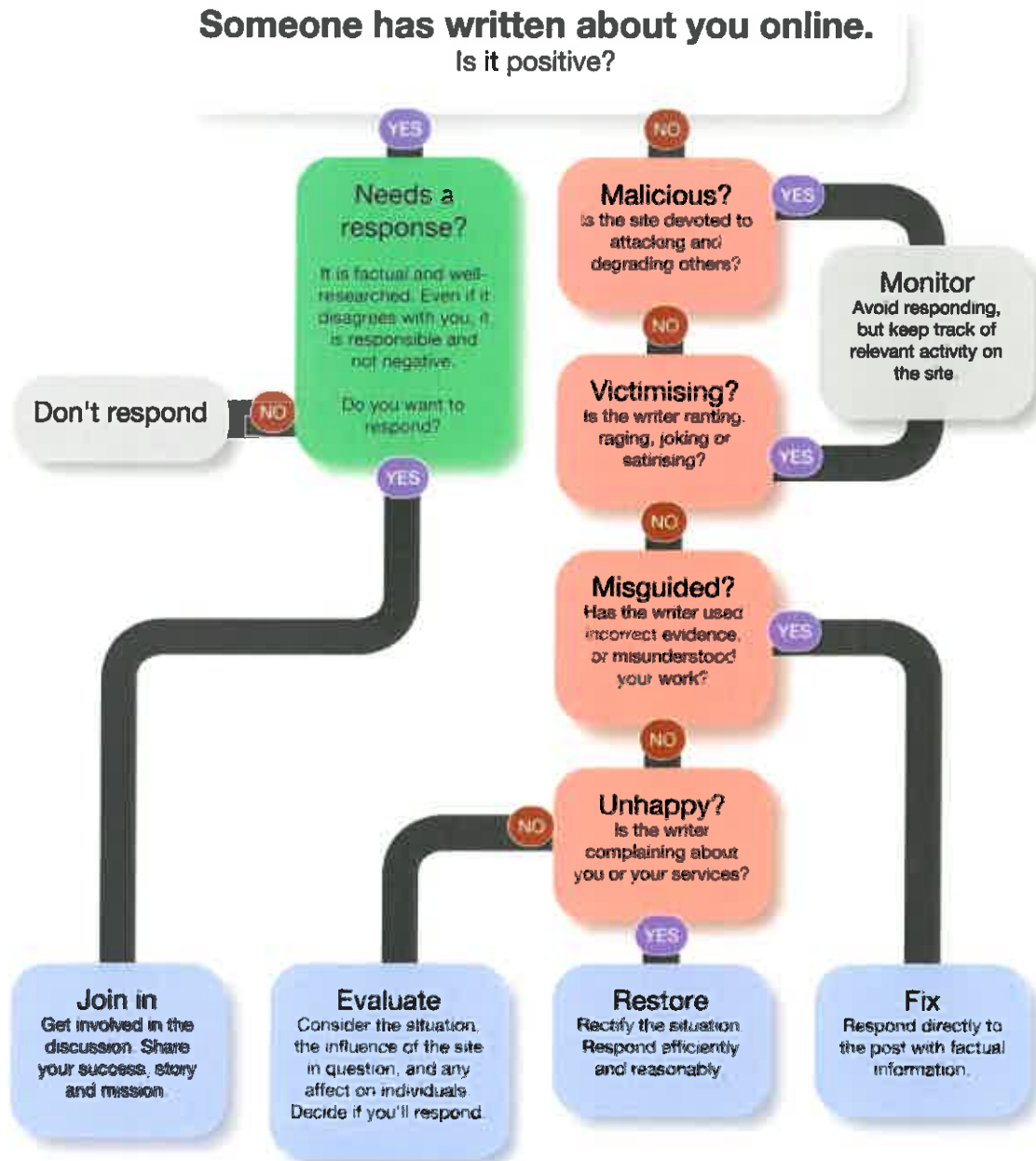
For further advice and guidance on using social media look on the [Engagement pages](#) on BRIAN

Use your common sense, relax and enjoy.

Monitoring Officer

November 2017

Knowing when to join the social media conversation



Before you respond...

- Be transparent**
Be honest about your connection to the story.
- Cite sources**
Be clear about your sources, and include links to them.
- Don't rush**
Take time to make your response a good one.
- Get the tone right**
Reflect your organisation's richness and test your response on a colleague.
- Focus**
Focus on your most influential online activity.

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Report of:	Meeting	Date	Item no.
The Monitoring Officer (Liesl Hadgraft)	Standards Committee	16 November 2017	5

Consultation: Disqualification Criteria for Councillors

1. Purpose of report

- 1.1 To enable a response to be sent to consultation being carried out by the Department for Communities and Local Government (DCLG) about an addition to the criteria for the disqualification of Councillors and elected Mayors.

2. Outcomes

- 2.1 Improved ethical standards in local government.

3. Recommendations

- 3.1 That the Committee considers whether or not to support the DCLG proposal to introduce a new rule prohibiting any individual who is subject to an Anti-Social Behaviour Injunction, a Criminal Behaviour Order or added to the sex offenders' register, from standing for election or holding office as a Councillor and, to instruct the Monitoring Officer to respond to the consultation accordingly.
- 3.2 That the Committee also considers asking the Monitoring Officer to inform the DCLG of the Committee's view that a wider review of the local government standards regime should be undertaken as soon as possible.

4. Background

- 4.1 An extract from the text of a press release issued by the DCLG, explaining the purpose of the proposed changes to the disqualification criteria, is attached as Appendix 1. The full consultation document is attached as Appendix 2 and can also be viewed and responded to on the GOV.UK website, via the following link: [consultation](#). Any responses have to be submitted by 5pm on 8 December 2017.

5. Key issues and proposals

- 5.1** The Committee is invited to consider the proposals and decide how it wishes to respond.
- 5.2** The Committee may also wish to take this opportunity to highlight the need, previously stated by members, for a more comprehensive review of ethical standards in local government. Such comments are consistent with a widely reported view within the local government sector that, whilst the abolition by the Localism Act 2011 of the former Standards Board for England was necessary, the way in which the devolvement of its responsibilities to local standards committees - without the power to impose meaningful sanctions for breaches of the councillors code of conduct - has led to the current arrangements becoming largely ineffective.

Financial and legal implications	
Finance	None.
Legal	None, other than the references to the legislation referred to in the report.

Other risks/implications: checklist

If there are significant implications arising from this report on any issues marked with a ✓ below, the report author will have consulted with the appropriate specialist officers on those implications and addressed them in the body of the report. There are no significant implications arising directly from this report, for those issues marked with a x.

risks/implications	✓ / x
community safety	x
equality and diversity	x
sustainability	x
health and safety	x

risks/implications	✓ / x
asset management	x
climate change	x
data protection	x

report author	telephone no.	email	date
Roy Saunders (Democratic Services and Scrutiny Manager)	01253 887481	roy.saunders@wyre.gov.uk	7/11/17

List of background papers:		
name of document	date	where available for inspection
None	-	-

List of appendices

Appendix 1: DCLG press release

Appendix 2: DCLG consultation document.

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Department for Communities and Local Government Press Release 18/9/17

New rules to strengthen standards for councillors and elected mayors

Local Government Minister Marcus Jones has set out plans to strengthen rules to prevent anyone found guilty of serious crimes from serving on local councils.

Under the planned changes to criteria, it would ensure those who represent their communities are held to the highest possible standards. Current rules make clear that anyone convicted of an offence carrying a prison sentence of more than 3 months is banned from serving as a local councillor. However, Mr Jones said that while this may have prevented criminals from becoming councillors, it does not reflect modern sentencing practices. New rules could mean anyone given an Anti Social Behaviour Injunction, a Criminal Behaviour Order or added to the sex offenders' register, would no longer be able to hold elected office in their communities.

Local Government Minister Marcus Jones said:

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.

Current barriers to becoming a councillor include being employed by the authority, being subject to a bankruptcy order or being convicted of an offence resulting in a prison sentence.

These restrictions were implemented in 1972, before the sex offenders register or other non-custodial orders existed. The new 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.

They would apply to councillors and mayors in parish, town, local, county and unitary councils, combined authorities and the Greater London Authority.

It would mean a ban on standing to be elected or if once elected a councillor was subsequently convicted of a serious offence, that resulted in an Anti Social Behaviour Injunction, a Criminal Behaviour Order or being on the sex offenders' register, being forced to step down.

The changes would better reflect rules governing standards of MPs, where members face suspension from the House for anything that contravenes the parliamentary code of conduct.



Department for
Communities and
Local Government

Disqualification criteria for Councillors and Mayors

Consultation on updating disqualification criteria for local authority members



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September 2017

ISBN: 978-1-4098-5102-8

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Scope of the consultation

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

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

Basic Information

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

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

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

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

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

The Current Disqualification Criteria

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

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

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

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

Sexual Offences

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

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

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

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

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

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

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

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

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

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

Anti-Social Behaviour

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

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

Anti-Social Behaviour (ASB) Powers

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

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

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

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

Retrospection

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

Questions

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

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

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

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

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

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

About this consultation

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

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

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

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

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

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

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

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SUMMARY OF CURRENT COMPLAINTS 16 NOVEMBER 2017

The following alleged breaches of the Code of Conduct are either currently being dealt with under the Council's complaints process or have been concluded since the meeting of the Standards Committee held on 22 June 2017.

Ref No	Complainant	Subject Member	Category of Complaint	Progress/Outcome
2016/18	A Parish/Town Councillor Supersedes complaint Ref 2015/07(ii)	A Parish/Town Councillor	Inappropriate comments and behaviour at Council meetings, in emails and to the press.	<p>This is a complex matter, involving a number of issues, dating back to 2015. The Monitoring Officer and an Independent Member have met with both the complainant and the subject member and have attempted to resolve the complaint informally. At the last meeting of the Standards Committee it was reported that the subject member had agreed to make an apology which it was hoped would enable a working relationship to be re-established and behaviours at meetings to improve. However, the subject member has not made the requested apology.</p> <p>A Standards Committee Hearing is therefore currently being arranged.</p>

Ref No	Complainant	Subject Member	Category of Complaint	Progress/Outcome
2017/01	4 Wyre BC Councillors	A Wyre Councillor	<p>Making incorrect statements with regard to scrutiny meetings and failing to correct them when given the opportunity to do so.</p> <p><i>“Disrespect for the Council’s Corporate Values. Failure to comply with the principles - selflessness, integrity, objectivity, accountability, openness, honesty and leadership. Failure to maintain the highest standards of conduct and ethics.”</i></p>	<p>The Monitoring Officer wrote to the subject member on 26/5/17 confirming, on the basis of the information considered and the discussions held, the actions which she proposed should be taken, as reported at the last meeting of the Standards Committee.</p> <p>A mechanism to resolve the issues raised in the complaint has subsequently been found and actioned.</p>
2017/04	4 Wyre Councillors	A Wyre Councillor	Inappropriate comments and bad language at a Committee meeting.	<p>The Monitoring Officer and an Independent Person met with the subject Member to discuss the issues raised in the complaint.</p> <p>The Monitoring Officer and the Independent Person requested that, to resolve the complaint, an apology be made.</p> <p>However, the subject member has declined to make the requested apology.</p> <p>A Standards Committee Hearing is therefore currently arranged.</p>

Ref No	Complainant	Subject Member	Category of Complaint	Progress/Outcome
2017/05	2 Wyre Councillors	A Wyre Councillor	Failure to properly register pecuniary interests.	<p>Preliminary tests considered by the Monitoring Officer and an Independent Person.</p> <p>Monitoring Officer investigating further to establish whether or not there has potentially been a breach of the Code.</p>
2017/06	2 Wyre Councillors	A Wyre Councillor	Failure to properly register pecuniary interests.	<p>Preliminary tests considered by the Monitoring Officer and an Independent Person.</p> <p>Monitoring Officer investigating further to establish whether or not there has potentially been a breach of the Code.</p>
2017/07	2 Wyre Councillors	A Wyre Councillor	<i>Failure to have regard to the principles of the Code of Conduct (selflessness, integrity, objectivity, accountability, openness, honesty and leadership) and to maintain the highest standards of conduct and ethics - if allegations made by a third party about the behaviour of the subject member were found to be true.</i>	<p>Preliminary tests considered by the Monitoring Officer and an Independent Person.</p> <p>Subject Member not considered to be acting as a Councillor when the alleged behaviour took place, so not within the remit of the Standards regime.</p> <p>No further action to be taken.</p>

Ref No	Complainant	Subject Member	Category of Complaint	Progress/Outcome
2017/08	2 Wyre Councillors	A Wyre Councillor	<i>Failure to have regard to the principles of the Code of Conduct (selflessness, integrity, objectivity, accountability, openness, honesty and leadership) and to maintain the highest standards of conduct and ethics - if allegations made by a third party about the behaviour of the subject member were found to be true.</i>	<p>Preliminary tests considered by the Monitoring Officer and an Independent Person.</p> <p>Subject Member not considered to be acting as a Councillor when the alleged behaviour took place, so not within the remit of the Standards regime.</p> <p>No further action to be taken.</p>

Updated 7 November 2017

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