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Standards Committee

Wednesday, 29th November, 2017 at 10.00 am
Hastings & Knepp, Parkside, Chart Way, Horsham

Councillors: David Coldwell (Chairman)
Mike Morgan (Vice-Chairman)
Roger Clarke
Roy Cornell
Brian Donnelly

Godfrey Newman
Michael Willett

Co-opted advisory members

John Donaldson
Mary Jagger
Philip Baxter
Val Court

Independent Person
Independent Person
Parish Council Representative
Parish Council Representative

You are summoned to the meeting to transact the following business

Tom Crowley
Chief Executive

Agenda

	Page No.
1. Apologies for absence	
2. Minutes	3 - 6
To approve as correct the minutes of the meeting held on 27 September 2017 (Note: If any Member wishes to propose an amendment to the minutes they should submit this in writing to committeeservices@horsham.gov.uk at least 24 hours before the meeting. Where applicable, the audio recording of the meeting will be checked to ensure the accuracy of the proposed amendment.)	
3. Declarations of Members' Interests	
To receive any declarations of interest from Members of the Committee	
4. Announcements	
To receive any announcements from the Chairman of the Committee, the Chief Executive or the Monitoring Officer	
5. Minutes of the Local Assessment Sub-Committee	7 - 18
To receive the minutes of the meetings of the Local Assessment Sub-Committee held on 23 August and 27 September 2017	

To consider the following report of the Monitoring Officer:

6. **DCLG Consultation - Disqualification Criteria for Councillors and Mayors** 19 - 42

7. **Urgent Business**

Items not on the agenda which the Chairman of the meeting is of the opinion should be considered as urgent because of the special circumstances

Standards Committee
27 SEPTEMBER 2017

Present: Councillors: David Coldwell (Vice-Chairman), Roger Clarke, Brian Donnelly, Mike Morgan, Godfrey Newman, John Donaldson, Mary Jagger, Philip Baxter and Val Court

Apologies: Councillors: Roy Cornell and Michael Willett

SC/9 **ELECTION OF CHAIRMAN**

RESOLVED

That Councillor David Coldwell be elected Chairman of the Committee for the rest of the Council year.

SC/10 **APPOINTMENT OF VICE-CHAIRMAN (IF REQUIRED)**

RESOLVED

That Councillor Mike Morgan be appointed Vice-Chairman of the Committee for the rest of the Council year.

SC/11 **MINUTES**

The minutes of the meeting of the Committee held on 7 June 2017 were approved as a correct record and signed by the Chairman.

SC/12 **DECLARATIONS OF MEMBERS' INTERESTS**

There were no declarations of interest.

SC/13 **ANNOUNCEMENTS**

There were no announcements.

SC/14 **THE LOCAL GOVERNMENT & SOCIAL CARE OMBUDSMAN UPDATE 2016-2017**

The Customer Services Feedback Officer reported on the number, nature and outcomes of complaints about the Council made to the Local Government & Social Care Ombudsman (LGSCO) in 2016/17. The Local Government Ombudsman had been renamed earlier this year to reflect its full remit.

In 2016/17 there had been a total of 14 complaints. Six had been closed without investigation, five had been referred back to the Council for local resolution, two had been upheld, and one not upheld.

Members noted details of the two complaints which had been upheld, as set out in Appendix 2 of the report, and were advised that the cases had been reviewed by the Feedback Officer and relevant Service Managers.

Members welcomed the report and considered that the small number of complaints reflected well on the quality of service supplied by the Council.

RESOLVED

That the contents of the report be noted.

REASONS

To ensure that the Committee has the necessary information to ensure that complaints can be made to the Council with ease and complaints are dealt with appropriately. In addition the Council uses its complaints process to improve services delivery.

SC/15 **THE ETHICAL FRAMEWORK UPDATE**

The Monitoring Officer presented the report which provided information on work that had been undertaken on Standards matters.

The Deputy Monitoring Officer had attended the Parish Clerks Quarterly meeting, which had taken place in Southwater in early September, and spoken on standards matters. Parish Clerks were advised to remind their Councillors to keep their Register of Interests forms up to date on Parish websites, and to ensure all information regarding disclosable pecuniary interests were included.

The Monitoring Officer advised that, since publication of the report, the DCLG had begun a consultation on proposals to update the criteria that prohibits individuals from becoming or being a Councillor or directly-elected Mayor, which would run until 8 December 2017. The scope of the Consultation is limited, however it could be an opportunity for local authorities to put forward their opinions on the current system, under the Localism Act 2011, and lobby for additional powers of sanction. Members agreed that the Committee would respond to the consultation after the next meeting of the Committee on 29 November.

- It was agreed that the Monitoring Officer would bring a report to the next meeting of the Committee regarding the government's consultation on updating the disqualification criteria for individuals becoming or being a Councillor.

- Further it was noted that The Committee on Standards in Public Life had announced in its Forward Plan for 2017/2018 that it intends to undertake a review of local government standards during 2017 and 2018.

Members discussed the importance of Standards training for Councillors. All Members had been offered training after the local elections in 2015. The Monitoring Officer would review what training had been given and look into the possibility of refresher training for Members and also for Parish Councillors. It was noted that HALC (Horsham Association of Local Councils) offered training at a Parish level, and training had also been given at a number of Parish Councils by the Monitoring and Deputy Monitoring Officer.

The list of Code of Conduct complaints, as set out in Appendix 1, was noted. The Chairman of the Committee suggested that the current process for dealing with local assessments should be reviewed, and he would look into this before the next meeting of the Committee.

RESOLVED

That the matters set out in the report be noted.

REASONS

- (i) To ensure that the Committee, the Members of the Council and others to whom the report is circulated are kept up to date with developments in the ethical framework.
- (ii) To promote and maintain high standards of conduct amongst Members.

SC/16 **URGENT BUSINESS**

There was no urgent business.

The meeting closed at 10.24 am having commenced at 9.30 am

CHAIRMAN

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Standards Committee
Local Assessment Sub-Committee
23 AUGUST 2017

Present: Councillors: David Coldwell, Brian Donnelly and Mike Morgan

SC/1 **ELECTION OF CHAIRMAN OF THE SUB-COMMITTEE FOR THE MEETING**

RESOLVED

That David Coldwell be elected Chairman of the Sub-Committee for the purposes of this meeting.

SC/2 **DECLARATIONS OF MEMBERS' INTERESTS**

Councillor David Coldwell declared a personal interest because he was acquainted with one of the complainants.

SC/3 **TO CONSIDER THE FOLLOWING EXEMPT OR CONFIDENTIAL INFORMATION:**

RESOLVED

That under Section 100A of the Local Government Act 1972 as amended the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Part I of Schedule 12A of the Local Government Act 1972 by virtue of the paragraph specified against the items and in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

SC/4 **TO CONDUCT ASSESSMENTS IN RELATION TO THE ALLEGED CONDUCT OF PARISH COUNCILLORS (CASE REFERENCES: CES: 141, 142, 143, 144, 145, 146 AND 147)**

Exempt information Paragraph 1 – Information relating to an individual

Assessments were conducted under the Localism Act 2011 Chapter 7 and the 'arrangements' which the Council has put in place for the assessment of such complaints under S 28(6) of the Act in relation to the alleged conduct of a number of Parish Councillors.

The Local Assessment Sub-Committee assessed seven complaints that had been received, each alleging that a Parish Councillor had failed to comply with the Parish Council's Code of Members' Conduct ('the Code').

There had been a number of different Complainants comprising members of the public as well as Parish Councillors and all complaints related to Members of the same Parish Council: CES/141 related to Subject Member A; CES/142, 144, 145 and 146 related to Subject Member B; CES/143 related to Subject Member C; and CES/147 related to Subject Member D.

The allegations had been received between 23 May and 11 June 2017 and referred to the following paragraphs of the Code:

CES/141 and CES/142: Part 1: 3(1) You must treat others with respect; 3(2) you must not (b) bully any person, (c) intimidate or attempt to intimidate any person who is likely to be a complainant or a witness; 5 You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute; The Nolan General Principles of Public Life – accountability, openness, leadership. These two complaints related to the same incident.

CES/143: 3.2(c) You must not intimidate or attempt to intimidate any person who is likely to be (i) a complainant, (ii) a witness, or (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; 6(a) You must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage.

CES/144: 3(1) You must treat others with respect; 4(a) You must not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where you have the consent of a person authorised to give it.

CES/145: 2(4)(a) It is a criminal offence, without reasonable excuse, to fail to notify the authority's monitoring officer of a disclosable pecuniary interest as defined in paragraph 13(1) of the Code.

CES/146: 4(b) You must not prevent another person from gaining access to information to which that person is entitled by law; 5 You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute; The Nolan General Principles of Public Life – integrity, accountability, openness, honesty, preserving public confidence

CES/147: 3(2)(b) and (c)i You must not bully any person, intimidate or attempt to intimidate any person who is or is likely to be a complainant, a witness, or involved in the administration of any investigation or proceedings in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; 5 You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute; 6(a)(b) You must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and must, when using or authorising the use by

others of the resources of your authority act in accordance with your authority's reasonable requirements; ensure that such resources are not used improperly for political purposes (including party political purposes); The Nolan General Principles of Public Life – selflessness, integrity, objectivity, honesty, leadership, public confidence).

Members of the sub-committee considered each alleged breach of the Code referred to in each complaint and considered on the basis of the information given whether, if such matters were proven, they would amount to a breach of the Code. They took into account the information supplied by the complainants, the Subject Members' responses where supplied, the view of the Parish Representative and of the Independent Person, and considered the advice of the Monitoring Officer.

CES/141 (Subject Member A)

RESOLVED

- (i) In accordance with Chapter 7 of the Localism Act 2011 and the Arrangements adopted by the District Council to deal with Code of Conduct complaints regarding Councillors, the Local Assessment Sub-Committee decided that on the basis of the information supplied, there was no evidence of a breach of the Code.
- (ii) The Committee recommended that the Parish Council are advised to summarise rules and procedures regarding public speaking at public meetings on all published agendas, in order to ensure clarity.

REASONS

- (i) The Sub-Committee considered that on the basis of the information provided, if proven, the subject Member had not breached paragraphs 3(1), 3(2)(b), 3(2)(c) and 5 of the Code.
- (ii) Whilst the General Principles of Public Life included in Part 5 of the Code underpin the Code of Conduct they do not in themselves create any separate obligations upon Members. Where therefore a subject Member is alleged to have breached the principles this shall not amount to a breach of the Code of Conduct itself.

CES/142; CES/144; CES/145; CES/146 (Subject Member B)

RESOLVED

- (i) In accordance with Chapter 7 of the Localism Act 2011 and the Arrangements adopted by the District Council to deal with Code

of Conduct complaints regarding Councillors, the Local Assessment Sub-Committee decided that on the basis of the information supplied regarding cases CES/142, CES/144, CES/145 and CES/146 there was no evidence of a breach of the Code.

REASONS

- (i) The Sub-Committee considered that on the basis of the information provided, if proven, the subject Member had not breached paragraphs 3(1), 3(2)(b), 3(2)(c), 5, 4(a), 2(4), and 4(b) of the Code.
- (ii) Whilst the General Principles of Public Life included in Part 5 of the Code underpin the Code of Conduct they do not in themselves create any separate obligations upon Members. Where therefore a subject Member is alleged to have breached the principles in complaints CES/142 and CES/146, this shall not amount to a breach of the Code of Conduct itself.
- (iii) The Local Assessment Sub-Committee considered that CES/144 amounted to a tenuous allegation that was of a trivial nature.
- (iv) The Local Assessment Sub-Committee considered CES/145 regarding the disclosure of pecuniary interests in relation to Section 30 of the Localism Act 2011 and noted that a non-executive Directorship of a company that was not for profit or gain was not subject to this provision. It did not fall within the meaning of a Pecuniary Interest as defined in the Schedule of Regulation 2 of The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. It was also noted that to include on the register of interests an office which was carried on for profit or gain without naming an organisation was considered to be consistent with the requirements of Section 30 of the Localism Act 2011 and the 2012 Regulations and did not amount to a breach of the Code.
- (v) With regards to CES/146, it was noted that complaints regarding the processing of Freedom of Information requests were not within the jurisdiction of the Local Assessment Sub-Committee and there appeared to be inconclusive evidence to show that the Subject Member had set out to prevent another person from gaining access to information.
- (vi) The Committee recommended that no further action be taken other than the recommendation (ii) above in relation to CES/142.

CES/143 (Subject Member C)

RESOLVED

In accordance with Chapter 7 of the Localism Act 2011 and the Arrangements adopted by the District Council to deal with Code of Conduct complaints regarding Councillors, the Local Assessment Sub-Committee decided that on the basis of the information supplied there was no evidence of a breach of the Code.

REASON

- (l) The Local Assessment Sub-Committee decided that, on the basis of the information provided, if proven, whilst there could have been a breach of the correct council meeting procedures, there had not been a breach of 3(2)(c) or 6(a) of the Code.

CES/147 (Subject Member D)

RESOLVED

In accordance with Chapter 7 of the Localism Act 2011 and the Arrangements adopted by the District Council to deal with Code of Conduct complaints regarding Councillors, the Local Assessment Sub-Committee decided that on the basis of the information supplied there was no evidence of a breach of the Code.

REASON

- (i) The Sub-Committee considered that on the basis of the information provided, if proven, the subject Member had not breached paragraphs 3(2)(b), 3(2)(c)i, 5, 6(a) and 6(b) of the Code.
- (ii) Whilst the General Principles of Public Life included in Part 5 of the Code underpin the Code of Conduct they do not in themselves create any separate obligations upon Members. Where therefore a subject Member is alleged to have breached the principles this shall not amount to a breach of the Code of Conduct itself.

The meeting closed at 11.30 am having commenced at 10.00 am

CHAIRMAN

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Standards Committee
Local Assessment Sub-Committee
27 SEPTEMBER 2017

Present: Councillors: David Coldwell, Brian Donnelly and Mike Morgan

SC/1 **ELECTION OF CHAIRMAN OF THE SUB-COMMITTEE FOR THE MEETING**

RESOLVED

That David Coldwell be elected Chairman of the Sub-Committee for the purposes of this meeting.

SC/2 **DECLARATIONS OF MEMBERS' INTERESTS**

Councillor David Coldwell declared a personal interest because he had met the Subject Member, but was not well acquainted with the Subject Member.

SC/3 **EXCLUSION OF THE PRESS AND PUBLIC**

RESOLVED

That under Section 100A of the Local Government Act 1972 as amended the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Part I of Schedule 12A of the Local Government Act 1972 by virtue of the paragraph specified against the items and in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

SC/4 **TO CONDUCT AN ASSESSMENT IN RELATION TO THE ALLEGED CONDUCT OF A PARISH COUNCILLOR (CASE REFERENCE CES/150)**

Exempt information Paragraph 1 – Information relating to an individual

The Local Assessment Sub-Committee assessed a complaint that had been received alleging that a Parish Councillor had failed to comply with the Parish Council's Code of Members' Conduct ('the Code'). The assessment was conducted under the Localism Act 2011 Chapter 7 and the 'arrangements' which the Council has put in place for the assessment of such complaints under S 28(6) of the Act in relation to the alleged conduct of a Parish Councillor.

The allegation was from two Complainants who were Members of the same Parish Council as the Subject Member. It had been received on 22 August 2017 and referred to the following paragraphs of the Code:

- 5) You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute;
- 6) You –
 - (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
 - (b) must, when using or authorising the use by others of the resources of your authority—
 - (i) act in accordance with your authority's reasonable requirements;
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
 - (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

The complainants also referred to paragraphs 8, 9 and 10 (Personal and Prejudicial Interests) as set out below, alleging a personal and prejudicial interest had not been declared and participation in items of business conducted at a Parish Council meeting.

- 8(1) You have a personal interest in any business of your authority where either—
 - it relates to or is likely to affect -
 - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
 - (ii) any body –
 - (aa) exercising functions of a public nature;
 - (bb) directed to charitable purposes; or
 - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;
 - (iii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50;
 - OR
 - (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of—
 - (i) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or
 - (ii) (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.
- 8(2) In sub-paragraph (1)(b), a relevant person is—
 - (a) a member of your family or any person with whom you have a close association; or
 - (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;

- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

- 9(1) Subject to sub-paragraphs (2) to (5), where you have a personal interest described in paragraph 8 above in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- 9(2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- 9(3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(iii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- 9(4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- 9(5) Where you have a personal interest but, by virtue of paragraph 16, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- 9(6) This sub-paragraph does not apply to your authority.
- 9(7) This sub-paragraph does not apply to your authority.

- 10(1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- 10(2) You do not have a prejudicial interest in any business of the authority where that business—
 - (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
 - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
 - (c) relates to the functions of your authority in respect of—
 - (i) this sub-paragraph does not apply to your authority;
 - (ii) this sub-paragraph does not apply to your authority;
 - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
 - (iv) an allowance, payment or indemnity given to members;
 - (v) any ceremonial honour given to members; and

(vi) setting council tax or a precept under the Local Government Finance Act 1992.

10(3) The determining of any approval, consent, licence, permission or registration as referred to in paragraph 10(2)(b) shall include the amendment, modification or variation of any such approval, consent, licence, permission or registration of any condition, limitation or term to which it is subject or the revoking of any approval, consent, licence, permission or registration.

Members of the sub-committee considered the allegation and, on the basis of the information given, whether, if such matters were proven, they would amount to a breach of the Code. They took into account the information supplied by the complainants, the Subject Member's response, the view of the Parish Representative and of the Independent Person, and considered the advice of the Monitoring Officer.

RESOLVED

- (i) In accordance with Chapter 7 of the Localism Act 2011 and the Arrangements adopted by the District Council to deal with Code of Conduct complaints regarding Councillors, the Local Assessment Sub-Committee decided that on the basis of the information supplied, there was no evidence which, if proven, would amount to a breach of the Code.

REASONS

- (i) The Sub-Committee considered that on the basis of the information provided, if proven, the subject Member had not breached paragraphs 5, 6, 8, 9 and 10 of the Code.
- (ii) The Subject Member had sought advice from the Monitoring Officer in May 2016 on whether the Subject Member might hold a personal or prejudicial interest in relation to certain items of council business, such interest arising due to the location of the Subject Member's property and the site of a proposed quarry known as Ham Farm Quarry. The Monitoring Officer's advice had been that the Subject Member did not hold a personal interest on the basis that the Subject Member would not be affected 'to a greater extent than the majority of other taxpayers' in the electoral division or ward. Further as the Subject Member did not hold a personal interest, there was no prejudicial interest.
- (iii) There was no information supplied by the Complainant which, even if proven, would indicate that the Monitoring Officer's advice previously given to the Subject Member should no longer be relied on by the Subject Member.

The meeting closed at 10.52 am having commenced at 10.30 am

CHAIRMAN

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Report to Standards Committee

29 November 2017

By the Interim Monitoring Officer

DECISION REQUIRED



**Horsham
District
Council**

DCLG Consultation – Disqualification Criteria for Councillors and Mayors

Executive Summary

The report informs the Committee of the Consultation paper issued by the Department of Communities and Local Government (DCLG) on behalf of the Secretary of State considering proposals to update the criteria disqualifying individuals from standing for, or holding office as elected Members or directly-elected Mayors.

Recommendation

That the Standards Committee consider the proposals in the Consultation paper and agree the substance of a response to be made to DCLG and asks the Monitoring Officer to send a written response in accordance with the Committee's decision.

Background Papers

None

Report Author:

Ann-Maria Brown

Head of Legal and Democratic Services, Crawley Borough Council, Town Hall, The Boulevard, Crawley, West Sussex, RH10 1UZ

Interim Monitoring Officer for Horsham District Council.

Background Information

1 Background

- 1.1 Section 80 of The Local Government Act 1972 sets out a number of circumstances in which a person will be disqualified from standing for or holding office as a local authority member, or directly-elected Mayor. One such disqualification applies if a person has, within five years of the day of the election, or since their election, been convicted in the United Kingdom, the Channel Islands or the Isle of Man of any offence and have received a sentence of imprisonment, suspended or not, for a period of not less than three months without the option of a fine. However, these rules, do not reflect current sentencing options and mean that should, for example, a Member be placed on the Sex Offender's Register they would not be prohibited from serving as a Councillor. The current rules were created in 1972 when there were few alternative options to prison sentences so consideration is now being given as to whether they remain fit for purpose in light of the various non-custodial options available to the courts.
- 1.2 Other barriers to becoming a Councillor include being employed by the authority, being employed in a company controlled by the local authority or being subject to a Bankruptcy Order.
- 1.3 The Government considers that the law should be updated to reflect the new options which exist to protect the public and address unlawful and unacceptable behaviour. In September 2017 the Department for Communities and Local Government (DCLG) issued a Consultation paper which sets out the Government's proposals for updating the criteria disqualifying individuals from standing for, or holding office as, a local authority member or directly-elected Mayor. The Consultation paper is appended to this report at Appendix 1. The new rules proposed could mean that anyone given an Anti-Social Behaviour Injunction, a Criminal Behaviour Order or added to the Sex Offenders' Register, would not be able to stand for election or hold elected office, the result being that they would need to resign their position if already elected.

2 Relevant Council policy

- 2.1 The Council is committed to the highest standards of corporate governance and views the ethical framework as integral to that process.

3 Details

- 3.1 The Government is proposing to broaden the disqualification criteria. In addition to the current disqualification criteria, under the proposals, individuals will also be banned from standing for office if they are subject to:-
 - the notification requirements set out in the Sexual Offences Act 2003 ('being on the Sex Offenders Register')
 - a Civil Injunction granted under s.1 of the Anti-Social Behaviour, Crime and Policing Act 2014; or
 - a Criminal Behaviour Order made under section 22 of the Anti-Social Behaviour, Crime and Policing Act 2014.

- 3.2 The proposals in the Consultation will not apply retrospectively. Any incumbent local authority member or directly-elected Mayor who is on the Sex Offenders Register or subject to a Civil Injunction or Criminal Behaviour Order at the time any changes come into force will not be affected. Clearly any such individuals would be prevented from standing for re-election after the changes come into force.
- 3.3 The Consultation began on the 18 September and will run for 12 weeks, closing on Friday 8 December 2017.
- 3.4 The Government has concerns that the current rules are not robust by enabling people who are not fit for office to stand for election. The changes proposed would help ensure anyone convicted of a serious crime, regardless of whether it comes with a custodial sentence, will not be able to serve as a Councillor or elected Mayor. It is hoped that this will ensure that individuals elected are held to the highest possible standards.
- 3.5 The proposed changes would also better reflect rules governing standards of MP's where members face suspension from the House of Parliament for anything that contravenes the Parliamentary Code of Conduct.
- 3.6 The Consultation paper proposes that in relation to sexual offences anyone who is subject to sex offender notification requirements, commonly referred to as 'being on the Sex Offenders Register', should be barred from standing for election, or holding office, as a local authority member, or directly-elected Mayor. An individual can become subject to the notification requirements by committing certain acts or being issued with certain types of civil order:
- Being subject to sex offender notification requirements is an automatic consequence of being cautioned or convicted of a sexual offence listed in Schedule 3 of the Sexual Offences Act 2003 (see <http://www.legislation.gov.uk/ukpga/2003/42/schedule/3>).
 - Sexual Harm Prevention Orders are civil orders intended to protect the public from offenders convicted of a sexual or violent offence who pose a risk of sexual harm to the public by placing restrictions on their behaviour. Offenders who are subject to Sexual Harm Prevention Orders become subject to notification requirements.
 - Notification Orders are civil orders intended to protect the public in the UK from the risks posed by sex offenders who have been convicted, cautioned, warned or reprimanded for sexual offences committed overseas. Such offenders may be British or foreign nationals convicted, cautioned etc. abroad of a relevant offence. Offenders who are subject to Notification Orders become subject to notification requirements.

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

- 3.7 In relation to anti-social behaviour, the Consultation paper proposes 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 or directly-elected mayor. A Civil Injunction will be made which is a civil order with a civil burden of proof. The injunction can include both prohibitions and positive requirements to tackle the underlying causes of the behaviour. Applications can be made by the Police, Councils, Social landlords, as well as other Agencies and Bodies. A Criminal Behaviour Order will be made by a court on conviction. The Order can be issued by any criminal court against a person who has been convicted of an offence. It is aimed at tackling the most persistently anti-social individuals who are also engaged in criminal activity. Applications are made by prosecution, in most cases by the Crown Prosecution Service, either at its own initiative or following a request from the Police or Council. The period of time for which they would be barred would end once the individual was no longer subject to the Injunction or Order.

- 3.8 It is not proposed to include other types of civil order, e.g. Sexual Risk Order, as in those circumstances the individual would not have been convicted or cautioned of a sexual offence under the Sexual Offences Act 2003 and are not subject to notification requirements for registered sex offenders. Similarly, other anti-social behaviour orders not issued by the court i.e. the use of Dispersal Powers, Community Protection Notices, Public Spaces Protection Orders and Closure Powers would not result in disqualification.

4 Comments from the Monitoring Officer

- 4.1 The Government's proposals set out in this Consultation paper are to be welcomed as strengthening local government's ethical agenda and ensuring that individuals wishing to hold elected office are of good character. This may be seen as particularly relevant given the limited powers of a local authority to impose sanctions (such as suspension) on members who are in breach of the Member Code of Conduct.
- 4.2 The proposed additional disqualification criteria are proportionate to reflect new options which exist to protect the public and address unlawful and unacceptable behaviour.
- 4.3 These proposals reflect current criminal sentencing powers and will further contribute to public confidence in local government and promote the highest standards in public life. The proposals would also better reflect the rules governing the standards for Members of Parliament (MPs), where MPs face suspension from the House for anything that contravenes the Parliamentary Code of Conduct.
- 4.4 The Committee is further advised that the Committee on Standards in Public Life announced in its Forward Plan for 2017/2018 that it intends to undertake a review of Local Government Standards in 2017/2018.

5 Options available

- 5.1 To note the Consultation paper only
- 5.2 To provide a response to the Consultation paper questions.

6 Legal Implications

- 6.1 The Consultation paper proposes updating the disqualification criteria in section 80 of the Local Government Act 1972, and to 9f schedule 5B to the Local Democracy, Economic Development and Construction Act 2009, to prohibit those subject to the notification requirements (commonly referred to as being 'being on the Sex Offenders Register') and those subject to certain anti-social behaviour sanctions from being local authority members or directly-elected Mayors.
- 5.2 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, or boards or the Greater London Authority; or
 - are a teacher in a school maintained by the local authority.

6 Risk Assessment

- 6.1 There are no direct risks associated with this report.

7 Other Considerations

- 7.1 There are no direct equality and diversity, Human Rights or Crime and Disorder implications arising from this report.

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Department for
Communities and
Local Government

Disqualification criteria for Councillors and Mayors

Consultation on updating disqualification criteria for local
authority members



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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>

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	<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

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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

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- 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

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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.

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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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