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Standards Committee

Thursday, 29th March, 2018 at 10.00 am
Cowdray, Parkside, Chart Way, Horsham

Councillors: David Coldwell (Chairman)
Mike Morgan (Vice-Chairman)
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 - 4 |
| To approve as correct the minutes of the meeting held on 29 November 2017 | |
| 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 | |
| To consider the following report of the Monitoring Officer: | |
| 5. Review of Local Government Ethical Standards | 5 - 16 |
| The Committee on Standards in Public Life invites consultation responses to inform its review of local government ethical standards | |
| 6. 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 | |

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Standards Committee
29 NOVEMBER 2017

Present: Councillors: David Coldwell (Chairman), Mike Morgan (Vice-Chairman), Roy Cornell, Brian Donnelly, Godfrey Newman and Michael Willett
Parish Council Representatives: Philip Baxter and Val Court
Independent Person: John Donaldson

Apologies: Councillor Roger Clarke and Independent Person Mary Jagger

SC/17 **MINUTES**

The minutes of the meeting of the Committee held on 27 September 2017 were approved as a correct record and signed by the Chairman.

SC/18 **DECLARATIONS OF MEMBERS' INTERESTS**

Philip Baxter advised that he had recently become Chairman of Billingshurst Community Transport, which on occasion applied for grants from the District Council.

SC/19 **ANNOUNCEMENTS**

There were no announcements.

SC/20 **MINUTES OF THE LOCAL ASSESSMENT SUB-COMMITTEE**

The minutes of the meetings of the Local Assessment Sub-Committees held on 23 August and 27 September 2017 were received.

SC/21 **DCLG CONSULTATION - DISQUALIFICATION CRITERIA FOR COUNCILLORS AND MAYORS**

The Interim Monitoring Officer reported on the Consultation paper issued by the Department of Communities and Local Government (DCLG) regarding proposals to update the criteria disqualifying individuals from standing for or holding office as elected Members or directly-elected Mayors. The existing criteria were set out in the Local Government Act 1972 and the Government considered that the law should be updated to broaden the criteria to reflect current sentencing options.

The Committee noted the proposals in the Consultation paper and were satisfied that the proposals were timely and appropriate.

The Interim Monitoring Officer reminded Members that the Committee on Standards in Public Life would be undertaking a review of Local Government

Standards. Dr Jane Martin CBE, one of the Lay members on the Committee on Standards in Public Life, touched on this in a speech she gave at the Annual Conference of the National Association of Local Councils in October, stating that the review would commence early in 2018, with publication of its terms of reference and call for evidence.

Members agreed that this forthcoming review would be an opportunity for the Committee to submit its concerns regarding the current Standards Regime, in particular regarding the lack of statutory sanctions.

RESOLVED

That the Consultation proposals be noted.

SC/22 **URGENT BUSINESS**

There was no urgent business.

The meeting closed at 10.30 am having commenced at 10.00 am

CHAIRMAN

Report to Standards Committee

29 March 2018

By the Interim Monitoring Officer

DECISION REQUIRED



**Horsham
District
Council**

Review of Local Government Ethical Standards

Executive Summary

The report informs the Standards Committee of the Local Government Ethical Standards Stakeholder Consultation being conducted by the Committee on Standards in Public Life and invites the Committee to consider if it wishes to respond to the Consultation. The report also updates the Committee on the DCLG Consultation on the Disqualification criteria for Councillors and Mayors and the introduction of a new Ministerial Code.

Recommendations

That the Standards Committee:-

- Notes the LGA response to the DCLG Consultation – Disqualification criteria for Councillors and Mayors.
- Notes the introduction of a new Ministerial Code issued in January 2018.
- Provides views on an appropriate response to the Consultation issued by the Committee on Standards in Public Life.
- Delegates authority to the Head of Legal and Democratic Services (Monitoring Officer) in consultation with the Chairman of the Committee to prepare the final consultation response to the Committee on Standards in Public Life.

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 DCLG Consultation – Disqualification Criteria for Councillors and Mayors

The Committee at the last meeting on 29 November 2017 considered the DCLG Consultation on the Disqualification Criteria for Councillors and Mayors (Minute SC/21 refers). The Committee noted the proposals and were satisfied that they were timely and appropriate. The LGA has responded to the Consultation on behalf of all Local Authorities, a copy of their submission is attached as Appendix 1.

1.2 New Ministerial Code

The Cabinet Office in January 2018 has issued a new Ministerial Code setting out the Standards of Conduct expected of Members of Parliament and how they should discharge their duties, a copy of the Code can be viewed at the link below:

<https://www.gov.uk/government/publications/ministerial-code>

1.3 Review of Local Government Ethical Standards

The Interim Monitoring Officer advised the Committee at the last meeting in November 2017 that the Committee on Standards in Public Life would be undertaking a review of Local Government Ethical Standards in 2018. Members agreed that this forthcoming review would be an opportunity for the Committee to submit its concerns regarding the current Standards Regime in particular regarding the lack of sanctions.

1.4 The Committee on Standards in Public Life has launched a consultation exercise to inform its Review of local government ethical standards. This consultation commenced on 29 January and will close on 18 May 2018.

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 Committee on Standards in Public Life has launched a consultation exercise to inform its review of local government ethical standards. The CSPL is a non-departmental public body which advises on ethical standards across the whole of public life including local authorities. This consultation commenced on 29 January and will close on 18 May 2018. The terms of reference for the Review are to:

- (a) Examine the structures, processes and practice in local government in England for:
- a. Maintaining codes of conduct for local Councillors;
 - b. Investigating alleged breaches fairly and with due process;
 - c. Enforcing codes and imposing sanctions for misconduct;
 - d. Declaring interests and managing conflicts of interest; and
 - e. Whistleblowing.
- (b) Assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government;
- (c) Make any recommendations for how they can be improved; and
- (d) Note any evidence of intimidation of Councillors, and make recommendations for any measures that could be put in place to prevent and address such intimidation.

The Review will consider all levels of local government in England, including town and parish councils.

The Consultation invites responses in a number of areas:

- General matters
- Codes of Conduct
- Investigation and Decisions on allegations
- Sanctions
- Declaring Interests and conflicts of interest
- Whistleblowing
- Improving Standards
- Intimidation of Councillors

A copy of the Consultation paper is attached at Appendix 2.

4. Options available

- 4.1 To note the Consultation paper only
- 4.2 To provide a response to the Consultation paper questions

5. Legal Implications

- 5.1 The Current Standards Regime was introduced in July 2012 as a result of The Localism Act 2011. The Localism Act 2011 abolished the previous 'standards regime' under the Local Government Act 2000 as the Government wanted to introduce more 'light touch' standards arrangements. The effect of the Localism Act was that Councils could adopt their own Codes of Conduct and determine what arrangements to have in place to deal with Code of Conduct complaints. The Act also made it compulsory to appoint an Independent Person whose views are to be sought and taken into account by the Council before it makes a decision on an

allegation that it has decided to investigate and in other instances where the Council may consult. Changes were also introduced to interests that members are required to declare relating to the disclosure of Disclosable Pecuniary Interests. Further all the statutory sanctions that had been available in the previous standards regime were abolished. Thereafter Councils had to look to common law.

Sanctions currently available under the common law:

- i) Censure;
- ii) Report the findings of the Standards Committee to Full Council and publish the findings on the Council website;
- iii) Exclude the Councillor from premises other than Council meeting rooms when necessary for the attendance at Council/Committee meetings;
- iv) Withdrawal of Council facilities, e.g. computer;
- v) Instruct the Monitoring Officer to arrange training;
- vi) Recommend to Council/Cabinet that the Councillor be removed from any outside body;
- vii) Inform the Group Leader that the Committee recommend the Councillor be removed from Cabinet/Portfolio Responsibilities;
- viii) Inform the Group Leader (or if independent – the Full Council) that the Committee recommend the Councillor be removed from a Committee(s).

6 Risk Assessment

6.1 There are no risk implications.

7 Other Considerations

7.1 There are no direct equality and diversity, human rights, or Crime and Disorder implications arising from this report

LGA submission to the consultation on disqualification criteria for councillors and mayors November 2017



About the Local Government Association

The Local Government Association (LGA) is the national voice of local government. We work with councils to support, promote and improve local government. We are a politically-led, cross-party organisation, which works on behalf of councils to ensure local government has a strong, credible voice with national government.

We aim to influence and set the political agenda on issues that matter most to councils so they are able to deliver local solutions to national problems. The LGA covers every part of England and Wales, supporting local government as the most efficient and accountable part of the public sector.

Key messages

The LGA supports the objective of ensuring the highest standards of integrity and conduct among local councillors and mayors. As the representative organisation for local government, the LGA works with member organisations and councillors to promote conduct and leadership that is in line with the seven principles of standards in public life.

We are therefore supportive of the intention to take measures that help prevent public confidence in elected officials from being undermined. However, any new measures should apply equally to all elected representatives as well as to Members of the House of Lords.

It is not clear why the proposals in the consultation apply only to local councillors as the Government provides no rationale for this. If Government believes that it is in principle unacceptable for individuals on the sex offenders register, or who are subject to an anti-social behaviour order issued by a court, to hold elected office, then this should apply equally to Police and Crime Commissioners, Parliamentary candidates and Members of both Houses of Parliament, as well as to councillors. Conversely, if Government believes that there are particular reasons or risks pertaining to local councillors which do not apply more widely, it should say what these are. Uneven standards are unjustifiable and risk damaging the reputation of Parliament

Councillors are already subject to more stringent disqualification criteria than Members of Parliament. Individuals who have received a prison sentence of three months or more in the five year period before the election are barred from standing as a councillor, or must stand down if convicted after their election. The equivalent provision barring an individual from standing for or sitting in Parliament applies if they are subject to a current conviction to be imprisoned for more than a year.

Disqualification standards should be the same for **all** elected officials, and – despite our support for some of the measures in this consultation – we do not

Submission

Appendix 1 - LGA response to disqualification criteria consultation

support the creation of further discrepancies in the regimes applying to local and national politicians.

In terms of the proposals themselves, freedom of expression and the right to take part in our elections are a fundamental part of the democratic values that our country holds dear. The need to maintain public confidence in elected officials must be balanced with the need to avoid measures which are unjustifiably restrictive or could be open to abuse.

While we are supportive of some of the measures in the consultation (specifically the proposal to disbar individuals on the sex offenders register) we are concerned at the lack of information put forward to support the wider proposals. Removing the rights of individuals to participate in our democratic process requires more justification than Government has provided in its consultation document.

In particular, we do not believe that Government has provided sufficient justification for disqualification of individuals who are subject to an anti-social behaviour sanction that has been issued by a court.

There are many different types of anti-social behaviour. The broad categorisation and approach proposed here risks including individuals or councillors who may have been involved in what many people would see as legitimate protests, rather than the type of anti-social behaviour that blights lives, which is the limited basis Government has cited. We are extremely concerned that this measure could be open to abuse and therefore do not support it.

Further detail

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?

The LGA recognises that the inability to require individuals who have been placed on the sex offenders register to stand down from their local elected office has undermined public confidence in local government. The conduct of a person whose behaviour has caused them to be placed on the register clearly falls unacceptably short of the standards required of our elected representatives; additionally an individual's continued presence in a public facing role could present a safeguarding risk.

We therefore support the proposal that an individual who is subject to the notification requirements set out in the Sexual Offences Act 2003 should be prohibited from standing for election, or holding office as a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor.

However, this disqualification criteria should also apply to Police and Crime Commissioners, Parliamentary candidates and Members of both Houses of Parliament.

In regard to individuals who are subject to a sexual risk order, we disagree that

Appendix 1 - LGA response to disqualification criteria consultation

people subject to an order should not be disqualified. Individuals who are subject to a sexual risk order should also be disqualified from seeking or holding office, on the basis that they could also pose a safeguarding risk and undermine public confidence. However, again we reiterate that this disqualification should be applied to Police and Crime Commissioners, Parliamentary candidates and Members of both Houses of Parliament.

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?

The LGA does not support this proposal. We do not think that there should be blanket disqualification criteria applying to any individual subject to a civil injunction or criminal behaviour order.

We believe that there is a clear risk that individuals who have been involved in persistent but non-violent protest (particularly in the environmental space) could be subject to these measures, thereby preventing them from seeking or holding elected office despite the fact they may have been protesting a cause that has significant local support. This would in itself be a serious infringement of local democratic processes, but we are further concerned that the criteria could be abused by political opponents seeking to have these sanctions imposed where is disagreement on local issues.

It is possible that there are some specific categories of anti-social behaviour – such as hate crime – for which there may be justification for excluding individuals found guilty of them from the democratic process. But again, we believe that Government has failed to provide a strong enough rationale or sufficiently describe what the issue is that it is trying to address, with the result that the proposal is far too wide ranging and not one that the LGA can support.

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?

It is not clear to us why the proposals in this consultation should have an impact on local authorities discharging their public sector equality duties; or that it should be a consideration if they did. Either the proposals are justifiable in themselves, or they aren't.

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

As set out above, we are unsure of the rationale for applying this criteria only to individuals 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.

Any new disqualification criteria arising from this consultation should be applied equally to Police and Crime Commissioners, Parliamentary candidates and

Appendix 1 - LGA response to disqualification criteria consultation

Members of both Houses of Parliament. The already unequal level playing field applying at local and national level should not be distorted any further.

We would also welcome clarity on how any changes to disqualification criteria would be enforced, and specifically how individuals who are on the sex offenders register or subject to a sexual risk order would be identified, recognising that there is no power for councils to impose a DBS check on individuals standing for election.

Review of Local Government Ethical Standards: Stakeholder Consultation

The Committee on Standards in Public Life is undertaking a review of local government ethical standards.

Robust standards arrangements are needed to safeguard local democracy, maintain high standards of conduct, and to protect ethical practice in local government.

As part of this review, the Committee is holding a public stakeholder consultation. The consultation is open from 12:00 on Monday 29 January 2018 and closes at 17:00 on Friday 18 May 2018.

Terms of reference

The terms of reference for the review are to:

1. Examine the structures, processes and practices in local government in England for:
 - a. Maintaining codes of conduct for local councillors;
 - b. Investigating alleged breaches fairly and with due process;
 - c. Enforcing codes and imposing sanctions for misconduct;
 - d. Declaring interests and managing conflicts of interest; and
 - e. Whistleblowing.
2. Assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government;
3. Make any recommendations for how they can be improved; and
4. Note any evidence of intimidation of councillors, and make recommendations for any measures that could be put in place to prevent and address such intimidation.

The review will consider all levels of local government in England, including town and parish councils, principal authorities, combined authorities (including Metro Mayors) and the Greater London Authority (including the Mayor of London).

Local government ethical standards are a devolved issue. The Committee's remit does not enable it to consider ethical standards issues in devolved nations in the UK except with the agreement of the relevant devolved administrations. However, we welcome any evidence relating to local government ethical standards in the devolved nations of the UK, particularly examples of best practice, for comparative purposes.

Submissions will be published online alongside our final report, with any contact information (for example, email addresses) removed.

Consultation questions

The Committee invites responses to the following consultation questions.

Please note that not all questions will be relevant to all respondents and that submissions do not need to respond to every question. Respondents may wish to give evidence about only one local authority, several local authorities, or local government in England as a whole.

Please do let us know whether your evidence is specific to one particular authority or is a more general comment on local government in England.

Whilst we understand submissions may be grounded in personal experience, please note that the review is not an opportunity to have specific grievances considered.

- a. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.
- b. What, if any, are the most significant gaps in the current ethical standards regime for local government?

Codes of conduct

- c. Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?
- d. A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.

Investigations and decisions on allegations

- e. Are allegations of councillor misconduct investigated and decided fairly and with due process?
 - i. What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?
 - ii. Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?
 - iii. Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

Sanctions

- f. Are existing sanctions for councillor misconduct sufficient?
 - i. What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?

- ii. Should local authorities be given the ability to use additional sanctions? If so, what should these be?

Declaring interests and conflicts of interest

- g. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.
 - i. A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?
 - ii. What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.

Whistleblowing

- h. What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?

Improving standards

- i. What steps could *local authorities* take to improve local government ethical standards?
- j. What steps could *central government* take to improve local government ethical standards?

Intimidation of local councillors

- k. What is the nature, scale, and extent of intimidation towards local councillors?
 - i. What measures could be put in place to prevent and address this intimidation?

Who can respond?

Anyone with an interest may make a submission. The Committee welcomes submissions from members of the public.

However, the consultation is aimed particularly at the following stakeholders, both individually and corporately:

- Local authorities and standards committees;
- Local authority members (for example, Parish Councillors, District Councillors);
- Local authority officials (for example, Monitoring Officers);
- Think tanks with an interest or expertise in local government;
- Academics with interest or expertise in local government; and
- Representative bodies or groups related to local government.

How to make a submission

Submissions can be sent either in electronic format or in hard copy.

Submissions must:

- State clearly who the submission is from, i.e. whether from yourself or sent on behalf of an organisation;
- Include a brief introduction about yourself/your organisation and your reason for submitting evidence;
- Be in doc, docx, rtf, txt, ooxml or odt format, not PDF;
- Be concise – we recommend no more than 2,000 words in length; and
- Contain a contact email address if you are submitting by email.

Submissions should:

- Have numbered paragraphs; and
- Comprise a single document. If there are any annexes or appendices, these should be included in the same document.

It would be helpful if your submission included any factual information you have to offer from which the Committee might be able to draw conclusions, and any recommendations for action which you would like the Committee to consider.

The Committee may choose not to accept a submission as evidence, or not to publish a submission even if it is accepted as evidence. This may occur where a submission is very long or contains material which is inappropriate.

Submissions sent to the Committee after the deadline of 17:00 on Friday 18 May 2018 may not be considered.

Submissions can be sent:

1. Via email to: public@public-standards.gov.uk
2. Via post to:
Review of Local Government Ethical Standards
Committee on Standards in Public Life
GC:07
1 Horse Guards Road
London
SW1A 2HQ

If you have any questions, please contact the Committee's Secretariat by email (public@public-standards.gov.uk) or phone (0207 271 2948).