



Public Document Pack

Uttlesford District Council

Chief Executive: Dawn French

Standards Committee

Date: Monday, 6th November, 2017

Time: 4.00 pm

Venue: Committee Room - Uttlesford District Council, Council Offices, London Road, Saffron Walden, Essex CB11 4ER

Chairman: Councillor T Knight

Members: Councillors K Artus (Vice-Chair), H Asker, A Dean, N Hargreaves, D Jones, P Lees, J Loughlin and G Sell

Public Speaking

At the start of the meeting there will be an opportunity of up to 15 minutes for members of the public to ask questions and make statements subject to having given notice by 12 noon two working days before the meeting.

AGENDA PART 1

Open to Public and Press

- 1 **Apologies for Absence and Declarations of Interest**

- 2 **Minutes of the Previous Meeting held on 20 March 2017** 1 - 4

- 3 **Department of Communities and Local Government
Consultation: Updating disqualification criteria for local
authority members** 5 - 10

- 4 Strengthening sanctions available to the Standards Committee (Verbal)**

- 5 Update on the adoption of the Council's Code of Conduct by town and parish councils (Verbal)**

- 6 Feedback from Independent Persons about their role (Verbal)**

MEETINGS AND THE PUBLIC

Members of the public are welcome to attend any of the Council's Cabinet or Committee meetings and listen to the debate. All agendas, reports and minutes can be viewed on the Council's website www.uttlesford.gov.uk. For background papers in relation to this meeting please contact committee@uttlesford.gov.uk or phone 01799 510548/369.

Members of the public and representatives of parish and town councils are permitted to speak or ask questions at any of these meetings. You will need to register with the Democratic Services Officer by midday two working days before the meeting.

The agenda is split into two parts. Most of the business is dealt with in Part I which is open to the public. Part II includes items which may be discussed in the absence of the press or public, as they deal with information which is personal or sensitive for some other reason. You will be asked to leave the meeting before Part II items are discussed.

Agenda and Minutes are available in alternative formats and/or languages. For more information please call 01799 510510.

Facilities for people with disabilities

The Council Offices has facilities for wheelchair users, including lifts and toilets. The Council Chamber has an induction loop so that those who have hearing difficulties can hear the debate.

If you are deaf or have impaired hearing and would like a signer available at a meeting, please contact committee@uttlesford.gov.uk or phone 01799 510548/369 as soon as possible prior to the meeting.

Fire/emergency evacuation procedure

If the fire alarm sounds continuously, or if you are instructed to do so, you must leave the building by the nearest designated fire exit. You will be directed to the nearest exit by a designated officer. It is vital you follow their instructions.

For information about this meeting please contact Democratic Services

Telephone: 01799 510369 or 510548

Email: Committee@uttlesford.gov.uk

General Enquiries

Council Offices, London Road, Saffron Walden, CB11 4ER

Telephone: 01799 510510

Fax: 01799 510550

Email: uconnect@uttlesford.gov.uk

Website: www.uttlesford.gov.uk

This page is intentionally left blank

STANDARDS COMMITTEE held at COUNCIL OFFICES LONDON ROAD SAFFRON WALDEN at 4pm on 20 March 2017

Present: Councillor T Knight – Chairman
Councillors H Asker, A Dean, N Hargreaves, D Jones, J
Loughlin.
Mrs Butcher- Daulton, Mr D Pearl, Mrs C Wellingbrook–Doswell
(Independent Persons).

Officers in attendance: P Snow (Democratic and Electoral Services
Manager), B Ferguson (Democratic Services Officer) and S
Pugh (Interim Head of Legal Services).

SC10 **APOLOGIES AND DECLARATIONS OF INTEREST**

Apologies for absence were received from Councillors Sell and Artus.

SC11 **MINUTES OF PREVIOUS MEETINGS**

The minutes of the meeting held on 3 February 2017 were agreed as a correct record and signed by the Chairman.

SC12 **REVIEW OF STANDARDS CODE OF CONDUCT AND PROCEDURE**

The Chairman referred to the previous meeting and updated members on the progress of the new Code of Conduct and attempts to resolve the issue of how the Nolan principles should be treated within the Code.

The main point of contention at the meeting on 3 February was whether breach of the Nolan principles should be considered a direct breach of the Code.

Councillor Artus was unable to attend the meeting but had put forward the following wording, "*You must comply with the principles set out in the first paragraph of this Code.*" During the discussion the majority of members expressed concern that the phrase "*must comply*" was too rigid and members would be held to account over subjective principles such as 'selflessness' and 'leadership'. Such a code could be used in a vexatious manner and would be difficult to enforce in a political environment.

Members discussed where the Nolan principles should be sequentially placed in the Code. Mrs Butcher-Daulton said Councillor Artus wanted them at the beginning. The Chairman agreed and said placing them at the beginning of the document would reinforce the aspiration of how Council members should behave. Councillor Dean said he did not see the point of having a set of broad principles, which were unenforceable, and a set of

detailed rules, which were obligatory. However, the Chairman said they would be an to an aspirational benchmark for councillors to follow. Councillor Asker reinforced this by reminding the meeting that the initial aim of the task group was to make the Code accessible to the general public. By putting the Nolan principles at the beginning of the document, this aim was achieved and the principles would be supported by more detailed information that came later in the document.

The meeting considered how the Code would affect parish councils. Councillor Dean stated that the purpose of the Standards Committee was not to tell parish councils how to run themselves. He emphasised the danger of trying to produce a political mechanism which could be used against councillors in an undemocratic way. The public should deal with principles such as poor leadership at an election. It should not be decided by a Code of Conduct and expressed his fear of opening the door to vexatious complaints. Councillor Asker responded by saying parish councils look to the District for guidance and a Code of Conduct which could be utilised by them was a major plus.

Mr Pearl said he had researched the intention of the Nolan principles and thought the differences concerning the Code could be overcome. The intention of the Code was to provide principles, not obligatory laws, to which members of national and local government would aspire. The wording of 'to comply' was therefore deemed too strong and he suggested an alternative phrase 'to promote adherence to'.

The meeting discussed the implications of complying with the Nolan principles. Councillor Hargreaves said it would allow a member to be accused of a lack of leadership by a political opponent, which would do real damage to a member's reputation. He reiterated the point that the principles could not be absolutely binding and therefore he rejected the word 'comply' but agreed with the term 'promote adherence to'. Councillor Dean said that even if the Nolan principles weren't regarded as rules, members who broke the principles could still be subjected to disciplinary action. He drew attention to the draft, which stated,

"It sets out standards of conduct expected of elected and co-opted members of the Council. It is also intended to promote the following principles."

Councillor Dean asked the Head of Legal Services if the phrase 'promoting adherence to' would make adherence to the Nolan principles a legal obligation. The Head of Legal Services said such wording prevented a breach of Nolan's principles becoming an automatic breach of the Code. The members voted in favour of the following wording to introduce the Nolan principles into the Code of Conduct.

*"This is the Code of Conduct adopted by Uttlesford District Council. It sets out standards of conduct expected of elected and co-opted members of the Council. It is also intended to **promote adherence to** the following principles"*

Councillor Dean abstained from the vote.

The Head of Legal Services stated that in light of the approval, paragraph 4 would be taken out and all subsequent articles would be renumbered.

Mr Pearl asked the meeting to check the wording on P.47 paragraph 8.11 as this suggested that the complainant would also be invited to make submissions. The Head of Legal Services said this was an error and the paragraph should have read,

*“8.11 Following announcement of the Hearing Panel’s findings, the **investigating officer** and the member will be invited to make submissions, if necessary, regarding remedies or sanctions.”*

Councillor Jones highlighted a drafting error on p. 22 of The Head of Legal Services draft where the title ‘THE COUNCILLORS’ CODE OF CONDUCT Part 1’ was repeated twice.

RESOLVED to recommend to Full Council the approval of the revised Code of Conduct, to include the agreed amendment as set out above.

The Chairman thanked the Independent members for their contribution to the Standards Committee. She reiterated how important their work had been in bringing about a fairer and more balanced standards procedure.

The Head of Legal Services explained that the Member Officer Protocol was referred by council to the Constitution Working Group, Members of the Standards Committee had been invited to attend this meeting as there was an overlap between the work of the committees. The protocol had been redrafted and the CWG would welcome the committees views.

The Chairman thanked all for attending.

The meeting ended at 5.15pm.

This page is intentionally left blank

Committee: Standards

Agenda Item

Date: 6 November 2017

3

Title: DCLG Consultation on updating disqualification criteria for local authority members

Author: Simon Pugh - Interim Head of Legal Services

Item for decision:
yes

Summary

1. The Department of Communities and Local Government has issued a consultation paper setting 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.
2. Responses to the consultation should be received by no later than 5pm on Friday 8 December 2017. Members are invited to consider a response.

Recommendations

3. That the Committee authorises the Interim Head of Legal Services, in consultation with the Committee Chairman, to draft and submit a response to the consultation reflecting the Committee's views expressed at the meeting.

Financial Implications

4. None.

Background Papers

5. The full consultation document may be found at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/645454/Disqualification_criteria_for_councillors_and_mayors.pdf

Impact

- 6.

Communication/Consultation	This report relates to consultation by the government.
Community Safety	None directly.
Equalities	None directly.
Health and Safety	None directly.
Human Rights/Legal	The adoption of the proposals would affect

Implications	the entitlement of some individuals to stand for election or, once elected to retain their seats. The disqualification provisions will not have retrospective effect.
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

Situation

7. The consultation document states:

“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.”

8. The current legislation prevents individuals from standing for, or holding office, as a councillor 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.

9. The full range of disqualification criteria apply to people who:

- 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 (if guilty of a corrupt or illegal electoral practice);
- 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.

10. The consultation seeks views on extending the criteria for disqualification.

Sexual offences

11. 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.

12. The consultation does not propose extending disqualification to those subject to a Sexual Risk Order. This is because such a person would not have been convicted or cautioned of a sexual offence under the Sexual Offences Act 2003 and is 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 but who is nevertheless thought to pose a risk of harm to the public in the UK and/or children or vulnerable adults abroad.

13. The consultation asks these 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. 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

14. 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.

15. The table below summarised the orders in question:

Power	Description
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

	<p>police, councils, social landlords, Transport for London, Environment Agency, Natural Resources Wales and NHS Protect.</p>
<p>Criminal Behaviour Order</p>	<p>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.</p>

16. The consultation asks these questions:

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?

17. Members may wish to consider the differences between these two types of order and should note the different standards of proof that apply in obtaining an order.

Further Questions

18. The consultation concludes by asking:

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?

Risk Analysis

19.

Risk	Likelihood	Impact	Mitigating actions
That local government is brought into disrepute by the personal behaviour of candidates or councillors	2	3	Application of the current Code of Conduct. Responding to the DCLG consultation summarised in this report.

- 1 = Little or no risk or impact
- 2 = Some risk or impact – action may be necessary.
- 3 = Significant risk or impact – action required
- 4 = Near certainty of risk occurring, catastrophic effect or failure of project.

This page is intentionally left blank