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Uttlesford District Council

Chief Executive: Dawn French

Standards Committee

Date: Monday, 16th April, 2018

Time: 5.00 pm

Venue: Council Chamber - Council Offices, London Road, Saffron Walden,
CB11 4ER

Chairman: Councillor D Jones

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

Other Attendees: Mrs G Butcher-Doulton, Mr D Pearl and Mrs C
Wellingbrook-Doswell (Independent Persons)

AGENDA PART 1

Open to Public and Press

1 Apologies for Absence and Declarations of Interest

To receive any apologies for absence and declarations of interest.

2 Minutes of the Previous Meeting

5 - 10

To consider the minutes of the previous meeting held on 6
November 2017.

3 Standards in Public Life: Report on Intimidation in Public Life

11 - 26

To receive the Committee on Standards in Public Life report on
Intimidation in Public Life.

4 Review of Local Government Ethical Standards: Stakeholder Consultation

27 - 34

To consider the Review of Local Government Ethical Standards:
Stakeholder Consultation report.

5 Update on the adoption of the Council's Code of Conduct by town and parish councils

To receive an update on the adoption of the Council's Code of Conduct by town and parish councils (Verbal).

6 Standards Work Programme 2018 - 19

To discuss potential items for the Standards committee Work Programme for 2018 – 2019 (Verbal).

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STANDARDS COMMITTEE held at COUNCIL OFFICES LONDON ROAD SAFFRON WALDEN at 4pm on 6 NOVEMBER 2017

Present: Councillor K Artus – Chairman
Councillors H Asker, A Dean, P Lees and G Sell

Mr D Pearl and Mrs C Wellingbrook–Doswell (Independent
Persons).

Officers in
attendance: 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 Jones, Knight, Light, Loughlin and Mrs Butcher. In Councillor Knight's absence, the Vice-Chair, Councillor Artus, chaired the meeting.

SC11 **MINUTES OF PREVIOUS MEETINGS**

The minutes of the meeting held on 20 March 2017 were agreed as a correct record and signed by the Chairman.

SC12 **DCLG CONSULTATION: UPDATING DISQUALIFICATION CRITERIA FOR LOCAL AUTHORITY MEMBERS**

The Interim Head of Legal Services presented his report on the Department of Communities and Local Government (DCLG) 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. Members were asked to put forward their views so a response to the consultation could be drafted.

The current criteria prevented individuals from standing for, or holding office as a councillor if they had received a sentence of imprisonment, suspended or not, for a period of no less than three months. The consultation issued by the DCLG sought views on extending these criteria for disqualification, with particular regard to sexual offences and anti-social behaviour.

SEXUAL OFFENCES

In relation to sexual offences, the consultation asked the following 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?

The consultation proposed that anyone who was currently subject to sex offender notification requirements (otherwise known as on the 'sex offenders register') should be barred from standing for election, or holding office, as a councillor. However, the consultation did not propose extending disqualification to those subject to a Sexual Risk Order (SRO).

The Interim Head of Legal Services said there was an important distinction to be made between a sexual offence under the Sexual Offences Acts 2003 and a Sexual Risk Order (SRO). An individual charged with a sexual offence under the Sexual Offences Act 2003 would have been tried and found guilty of a criminal offence, whilst an SRO was a civil order against someone who was perceived as a threat to public safety, but was not dependent on a conviction.

Councillor Asker said public safety was paramount and suggested a similar approach to Licensing standards should be adopted. When drivers apply for a commercial license, checks are carried out to ensure they are not a risk to the public. The same should apply to those standing for elected office; if they are in receipt of an SRO they are a risk and therefore not fit to be a councillor.

Councillor Lees said an individual who had been given an SRO had not been convicted and therefore would be disbarred from standing for office on a suspicion. Councillor Dean agreed and said this should not be grounds for disqualification.

The Chairman said individuals with an SRO had been considered a risk for good reason and should not be allowed to stand for elected office. Councillors Asker and Sell agreed. The majority of members felt that individuals who been subject to an SRO should be disqualified from standing for office.

The Committee resolved that the Interim Head of Legal Services should draft a response agreeing with Question 1 but (by a majority) disagreeing with Question 2 of the consultation.

ANTI-SOCIAL BEHAVIOUR

Concerning the anti-social behaviour orders, the consultation asked the following 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?

The Interim Head of Legal said there were two behaviour sanctions the consultation was seeking views on, a Civil Injunction and a Criminal Behaviour Order (CBO). He asked members to consider if such sanctions warranted inclusion in the disqualification criteria. He also advised members to think about the difference between the two types of order, particularly the different standards of proof that applied in obtaining these sanctions.

In response to a question from Councillor Sell, the Interim Head of Legal Services said CBOs were usually issued to individuals who caused a public nuisance, such as street drinkers. Councillor Sell said if CBOs were enforced on frequent offenders, such a sanction demonstrated that an individual was not a fit and proper person to be standing for elected office. Councillor Dean said he was wary of disqualifying individuals on the basis outlined in the report as it was interfering with the democratic process; an individual could be elected with a democratic mandate only to be disqualified by the Standards Committee. He said it was up to the electorate to decide if an individual was fit for office.

Councillor Lees said all individuals were capable of making mistakes and often people who were not perfect could connect and relate to the wider electorate. She added that there was an important distinction between a Criminal Behaviour Order made following conviction for a criminal offence and a civil injunction. She asked the Interim Head of Legal Services if a person, under the proposed changes outlined in the consultation paper, could be barred from standing for elected office if they had been sanctioned for political campaigning, for example protesting against fracking. The Interim Head of Legal Services said that political campaigning which involved anti-social behaviour could result in a Civil Injunction or a Criminal Behaviour Order. Councillor Sell said pressure groups had taken direct action throughout history to enact change and, whilst not always acting within the strict confines of the law, these individuals could foreseeably be fit and

proper people, as well as potentially effective representatives. He added that it was different if violence was involved.

Members agreed that the measures outlined in the consultation regarding anti-social behaviour were too crude. A consensus was reached that individuals should be prevented from standing for election if they had received a CBO, but a distinction had to be made between a CBO and a civil injunction order. Representations to the DCLG would be drafted along these lines.

ADDITIONAL QUESTIONS

In addition to the questions on sexual offences and anti-social behaviour, the consultation asked:

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?

Councillor Dean said that Westminster had more lenient disqualification criteria than those for politicians involved in local government. He said that standards should be consistent across the country, regardless of the tier of government. Following this consultation, he expected the new disqualification criteria to be applied to Parliament and asked for this point to be included in the response to Question 6.

The Chairman said a suitable response to Question 6 would be to mention the concern shared by the committee of the lack of sanctions available when councillors breached the code of conduct. The Interim Head of Legal Services said he would include this in his draft response.

RESOLVED the Interim Head of Legal Service to draft a response to the consultation and circulate to members for comment.

SC12

STRENGTHENING SANCTIONS AVAILABLE TO THE STANDARDS COMMITTEE

The Interim Head of Legal Services presented a verbal report to members on the strengthening of sanctions available to the Standards Committee. He said the Committee on Standards in Public Life would be considering ethical standards in local in 2018 and members could write to the Committee urging it to recommend strengthening the sanctions available.

Mr Pearl said he had found a survey carried out by Lawyers in Local Government (LLG) in which 60% of respondents felt that the abolition of the

Standards Board, and the lesser sanctions that could now be applied locally, had left them without the necessary tools to deal with breaches of conduct. The Chairman agreed and said the lack of sanctions available under the current regime had led to problems within a number of parish councils. He added that a Code of Conduct was toothless if rules could not be enforced.

In response to a question from the Chairman, the Interim Head of Legal Services said the main difference between the current system and the preceding one was the inability to suspend a councillor if the Code of Conduct had been breached. He added that it was just as important to promote a culture of standards whereby suspension would rarely be required.

The Chairman said there was a need to strengthen the sanctions available to the Standards Committee and to consider introducing a “right of recall” in respect of local councillors. The Interim Head of Legal Services said he would bring a report on this to the next meeting.

UPDATE ON THE ADOPTION OF THE COUNCIL'S CODE OF CONDUCT BY TOWN AND PARISH COUNCILS

The Interim Head of Legal Services updated members on the uptake of Uttlesford District Council's Code of Conduct by town and parish councils. He said progress was being made, and that an item had been included on the agenda for the Local Councils' Liaison Forum (LCLF) which had taken place in September. Stebbing Parish council had been the only parish to adopt the code and there was a need to promote it to councils across the district.

The Chairman said the uptake was disappointing and more needed to be done to encourage parish councils to adopt the code. Councillor Sell said not all parishes sent representatives to the LCLF and it would be a good idea to involve UDC members so they could encourage parishes within their ward to adopt the new code.

SC12

FEEDBACK FROM INDEPENDENT PERSONS ABOUT THEIR ROLE

The Interim Head of Legal Services said the Independent Persons who assisted the Standards Committee played a very valuable role, although the majority of their work was hidden from view. He asked Mr Pearl and Mrs Wellingbrook–Doswell to comment on their experience as Independent Persons.

Mrs Wellingbrook–Doswell said she had found the role interesting, although during her first year in the role the Standards Committee had been inundated with complaints. She said this was symptomatic of a wider problem where people found it easier to make a complaint rather than deal with local problems at source. She said she had been surprised by attitudes towards Standards hearings; rather than being seen as a serious and formal process

to be used only as a last resort, it was often perceived as the first step in resolving a problem. She said there was a need to provide training to those who conducted the hearings as preparation would promote formalising the process. She added that the Interim Head of Legal Services had helped in dealing with cases in an appropriate way.

Mr Pearl said he agreed with Mrs Wellingbrook-Doswell, particularly with regard to formalising the hearing process. He said the adoption of the Code of Conduct hearings procedure would help in making hearings more consistent and fair. He said he would like to have stronger sanctions available when councillors breached the code; formal training for councillors on standards; and the development of a respectful culture where breaches of the code were not tolerated. He added that the system adopted in 2011 was not ideal and would prefer to see a similar system to the one implemented in Wales.

The Chairman thanked the Independent Persons for their hard work and said it would be a positive development if issues could be resolved at local level without the need for a formal Standards hearing.

In response to a question from Councillor Sell, the Interim Head of Legal Services said the majority of cases concerned disputes within parish councils. He said the majority of issues were concerned with a clash of personalities or local disputes. He mentioned an occasion on which Mrs Wellingbrook-Doswell had met a complainant and the other parties to try to resolve the complaint without resorting to a formal Standards investigation and hearing.

The meeting ended at 5.20pm.

Committee: Standards **Date:** 16 April 2018
Title: Committee on Standards in Public Life: Report on Intimidation in Public Life
Author: Monitoring Officer Item for decision

Summary

The Committee on Standards in Public Life has issued a report on “Intimidation in Public Life”. The importance that the Committee attaches to its report is evident from the first sentence of the executive summary:

“Intimidation in public life presents a threat to the very nature of representative democracy in the UK.”

Whilst only one of the recommendations made in the report is addressed specifically to local authorities, the report addresses matters that are within the remit of the Standards Committee brief to promote ethical behaviour. Members are therefore invited to give it their consideration. It also contains recommendations to all those in public life.

Recommendations

1. That the Committee considers the conclusions and recommendations of the Committee on Standards in Public Life report on “Intimidation in Public Life”.

Financial Implications

2. None

Background Papers

3. The full report may be found at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/666927/6.3637_CO_v6_061217_Web3.1_2_.pdf

Impact

- 4.

Communication/Consultation	This report informs members of the report on “Intimidation in Public Life”. Further circulation of the executive summary to all members is a step that should be considered.
Community Safety	None

Equalities	Tackling intimidation in public life will help to promote participation by people with protected characteristics.
Health and Safety	There is a clear link between tackling intimidation and promoting health and safety.
Human Rights/Legal Implications	In dealing with this issue, it is important to be mindful of human rights relating to freedom of expression and assembly.
Sustainability	None
Ward-specific impacts	None
Workforce/Workplace	None

Situation

5. The Committee on Standards in Public Life has issued a report on “Intimidation in Public Life”. The appendix to this report sets out the terms of reference of the review being carried out by the Committee on Standards in Public Life, along with the consultation questions. The full report may be found at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/666927/6.3637_CO_v6_061217_Web3.1_2_.pdf

6. The summary is self-explanatory and much further commentary in this report is unnecessary.

7. The only direct recommendation in the report concerns the disclosure of home addresses as a “disclosable pecuniary interest”. The relevant part of our Code of Conduct states:

Where you have an interest that is registrable and the nature of the interest is such that you and The Council’s monitoring officer consider that disclosure of details of the interest could lead to you or a person connected with you being subject to violence or intimidation if the interest is entered in the authority’s register then copies of the register available for inspection and any published version of the register shall not include details of the interest but may state that you have an interest details of which are withheld under s.32(2) Localism Act 2011 and/or this paragraph.

This is wider in scope than home addresses and could include, for instance, shares held by a councillor. The report recommends Monitoring Officers to remind councillors of this provision and this will be done.

8. More widely, the report sets an important context for the work of the Standards Committee and for the Council and all councillors. Comments of particular relevance include:

- Nobody in public life should engage in intimidatory behaviour, nor condone or tolerate it.
 - Those in public life should seek to uphold high standards of conduct, adhering to the Seven Principles of Public Life, and help prevent a decline in public trust in political institutions through their own conduct.
 - Those in public life must set and protect a tone in public discourse which is not dehumanising or derogatory, and which recognises the rights of others to participate in public life.
 - Those in public life has a responsibility not to use language which engenders hatred or hostility towards individuals because of their personal characteristics.
9. These are reflected in the following recommendations made to all those in public life:
- Nobody in public life should engage in intimidatory behaviour, nor condone or tolerate it. All those in public life have a responsibility to challenge and report it wherever it occurs.
 - Those in public life should seek to uphold high standards of conduct, adhering to the Seven Principles of Public Life, and help prevent a decline in public trust in political institutions through their own conduct.
 - Those in public life must set and protect a tone in public discourse which is not dehumanising or derogatory, and which recognises the rights of others to participate in public life.
 - Those in public life have a responsibility not to use language which engenders hatred or hostility towards individuals because of their personal characteristics.
 - Those in public life should not engage in highly personalised attacks, nor portray policy disagreements or questions of professional competence as breaches of ethical standards.
10. Given the importance of the issue, the author suggests that all members of the Council, and parish councils, are made aware of the report and its recommendations.

Risk Analysis

Risk	Likelihood	Impact	Mitigating actions
That members of the Council do not meet the expectations set out in the report.	2	3	Informing all members of the Council of the report and its conclusions. Leading by example.

- 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.

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Executive summary

Intimidation in public life presents a threat to the very nature of representative democracy in the UK. Addressing this intimidatory, bullying and abusive culture matters. It matters for the diversity of our public life, it matters for the way in which the public can engage with representative democracy, and it matters for the freedom to discuss and debate issues and interests.

While intimidation in public life is nothing new, the scale and intensity of intimidation is now shaping public life in ways which are a serious issue. Social media companies have been too slow in taking action on online intimidation to protect their users. The political parties have failed to show leadership in calling out intimidatory behaviour and changing the tone of political debate. Police authorities have shown inconsistency in supporting those facing illegal intimidatory activities, and electoral law is out of date on this issue. So, we make recommendations for action to social media companies, political parties, government, police and prosecutors.

Intimidation also reflects broader issues with our public political culture. Those in public life must take responsibility for shaping that culture. They must take steps to ensure that their behaviour does not open the door for intimidation and work to build public trust in public life. They should uphold high ethical standards, and should never themselves engage in, incite or encourage derogatory or dehumanising political debate.

To understand this issue we have heard from a range of individuals and organisations, including candidates, MPs, social media companies, local councillors, regulatory bodies, broadcasters and journalists, police and security authorities, and other relevant stakeholders. We held 34 individual meetings, a roundtable, and a public and private hearing. We also received 88 written submissions to our call for evidence.

Our recommendations stand as a package. They should be implemented together, as a comprehensive response to an issue of central importance to our representative democracy. It is clear that determined action on the part of all those involved is required. The cost of not doing so is too high.

Our recommendations

The widespread use of **social media** has been the most significant factor accelerating and enabling intimidatory behaviour in recent years. Although social media helps to promote widespread access to ideas and engagement in debate, it also creates an intensely hostile online environment. Some have felt the need to disengage entirely from social media because of the abuse they face, and it has put off others who may wish to stand for public office.

In the fast-paced and rapidly developing world of social media, the companies themselves and government must both proactively address the issue of intimidation online. Not enough has been done. The Committee is deeply concerned about the limited engagement of the social media companies in tackling these issues.

Currently, social media companies do not have liability for the content on their sites, even where that content is illegal. This is largely due to the EU E-Commerce Directive (2000), which treats the social media companies as 'hosts' of online content. It is clear, however, that this legislation is out of date. Facebook, Twitter and Google are not simply platforms for the content that others post; they play a role in shaping what users see. We understand that they do not consider themselves as publishers, responsible for reviewing and editing everything that others post on their sites. But with developments in technology, the time has come for the companies to take more responsibility for illegal material that appears on their platforms.

The government should seek to legislate to shift the balance of liability for illegal content to the social media companies away from them being passive 'platforms' for illegal content. Given the government's stated intention to leave the EU Single Market, legislation can be introduced to this effect without being in breach of EU law. We believe government should legislate to rebalance this liability for illegal content, and thereby drive change in the way social media companies operate in combatting illegal behaviour online in the UK.

Government should bring forward legislation to shift the liability of illegal content online towards social media companies.

The social media companies are not providing a safe experience for their users. This is having a severely negative impact on a wide range of people in public life, who can be subject to persistent, vitriolic and threatening abuse online.

In advance of legislative change, social media companies must take responsibility for developing technology and the necessary options for users to tackle the issue of intimidation and abuse on their platforms.

Social media companies must develop and implement automated techniques to identify intimidatory content posted on their platforms. They should use this technology to ensure intimidatory content is taken down as soon as possible.

Social media companies must do more to prevent users being inundated with hostile messages on their platforms, and to support users who become victims of this behaviour.

Social media companies must implement tools to enhance the ability of users to tackle online intimidation through user options.

The Committee is deeply concerned about the failure of Google, Facebook and Twitter to collect performance data on the functioning of their report and takedown processes. Their lack of transparency is part of the problem. None of these companies would tell us if they collect this data, and do not set targets for the time taken for reported content to be taken off the platform. This seems extraordinary when their business is data driven in all other aspects. This data must be collected, and made available to users to judge the companies' performance on takedown.

All social media companies must ensure they are able to make decisions quickly and consistently on the takedown of intimidatory content online.

Twitter, Facebook and Google must publish UK-level performance data on the number of reports they receive, the percentage of reported content that is taken down, and the time it takes to take down that content, on at least a quarterly basis.

Social media companies must urgently revise their tools for users to escalate any reports of potential illegal online activity to the police.

Political tensions run high during election campaigns, and this also plays out online. During election campaigns, political debate and discussion online can become particularly heated. This can be amplified when intimidatory content online is not taken down quickly enough, as it shapes the tone of political debate.

Therefore, government should work with the social media companies to develop an independent body which can be set up during election campaigns as a 'trusted flagger' social media reporting team for illegal, hateful and intimidatory content. This would lead to any intimidatory content online being dealt with more quickly during the fast-paced context of an election.

The social media companies should work with the government to establish a 'pop-up' social media reporting team for election campaigns.

Social media companies should actively provide advice, guidance and support to Parliamentary candidates on steps they can take to remain safe and secure while using their sites.

Political parties have an important duty of care to their candidates, members and supporters to take action to address intimidation in public life. Intimidation takes place across the political spectrum, both in terms of those engaging in and those receiving intimidation.

The leadership of political parties must recognise this duty of care, and call out and condemn intimidatory behaviour wherever it occurs. Political parties must also be prepared to work together and engage constructively on these issues. Although political parties rely heavily on volunteers, particularly at election time, given the seriousness of the intimidation experienced by candidates and others, the parties have a responsibility to show leadership in addressing intimidation.

Those in positions of leadership within political parties must set an appropriate tone during election campaigns, and make clear that any intimidatory behaviour is unacceptable. They should challenge poor behaviour wherever it occurs.

Political parties must proactively work together to tackle the issue of intimidation in public life.

Some of those engaging in intimidatory behaviour towards Parliamentary candidates and others are members of political parties and/or the fringe groups of political parties. Leaders across the political spectrum must be clear that they have no tolerance for this sort of behaviour in their party, wherever it occurs. They should not remain silent whenever and wherever intimidation takes place.

One important part of setting expectations for the appropriate behaviour is through a code of conduct for members. Codes of conduct should also be supported by training on the code, and backed-up with appropriate disciplinary processes and sanctions for inappropriate behaviour.

Political parties should set clear expectations about the behaviour expected of their members, both offline and online through a code of conduct for members which specifically prohibits any intimidatory behaviour. Parties should ensure that members are familiar with the code. The consequences of any breach of the code should be clear and unambiguous.

Political parties must ensure that party members who breach the party's code of conduct by engaging in intimidation are consistently and appropriately disciplined in a timely manner.

Political parties must collect data on the number of complaints against members for engaging in intimidatory behaviour, and the outcome of any disciplinary processes which result from these complaints.

Leaders of political parties should always call out intimidatory behaviour, even when it is perpetrated by those in the party's fringes. Fringe group leaders and spokespeople should immediately denounce any intimidatory behaviour on the part of their members or supporters.

To tackle this issue, more cross-party collaboration is needed. The parties should come together to develop a joint code of conduct on intimidatory behaviour during election campaigns. This would encourage cross-party consensus on recognising and addressing the issue, and reduce the party political element of enforcing breaches of the code.

This code should be jointly enforced by the political parties through regular meetings during election campaigns. By working together, parties can take steps to set aside partisan differences to combat the important issue of intimidation in our public life.

The political parties must work together to develop a joint code of conduct on intimidatory behaviour during election campaigns by December 2018. The code should be jointly enforced by the political parties.

Political parties have a responsibility to support and try to protect those who give their time, often on a voluntary basis, towards the democratic process and public life. This includes support and training on online campaigning.

In particular, the parties must provide support for those who are most likely to be subject to the most intensely hostile abuse online. We are deeply concerned about the impact of intimidation on the diversity of our representative democracy, therefore, the parties have an important responsibility to support female, BAME, and LGBT candidates and prospective candidates in particular.

Political parties must take steps to provide support for all candidates, including through networks, training, support and resources. In particular, the parties should develop these support mechanisms for female, BAME, and LGBT candidates who are more likely to be targeted as subjects of intimidation.

Political parties must offer more support and training to candidates on their use of social media. This training should include: managing social media profiles, block and mute features, reporting content, and recognising when behaviour should be reported directly to the police.

For the **law** to be effective and enforceable, existing legislation must have a sufficient scope, the **police** must be able to curtail and contain intimidatory behaviour, as well as be able to gather the required evidence where a prosecution is appropriate, and **prosecutors** must have appropriate guidance in place.

We have seen no evidence that the current criminal law is insufficient. New offences specific to social media are unnecessary and could be rendered outdated quickly.

Intimidation of Parliamentary candidates is of particular significance because of the threat it poses to the integrity of the democratic process and of public service more widely. Specific electoral sanctions would reflect the seriousness of this threat. A new electoral offence of intimidating Parliamentary candidates and party campaigners during an election should be considered. This would serve to highlight the seriousness of the issue, result in more appropriate sanctions, and serve as a deterrent to those specifically targeting Parliamentary candidates and their supporters.

The government should consult on the introduction of a new offence in electoral law of intimidating Parliamentary candidates and party campaigners.

The requirement that candidates standing for election as local councillors must publish their home address on the ballot paper has enabled intimidatory behaviour. There is cross-party consensus for legislation to remove this requirement, which the government should bring forward. Provisions already exist to prevent local authority members' particular financial and other interests being publicly declared where there is a risk of intimidation to them or their family, and these provisions should be drawn to members' attention by Monitoring Officers.

The government should bring forward legislation to remove the requirement for candidates standing as local councillors to have their home addresses published on the ballot paper. Returning Officers should not disclose the home addresses of those attending an election count.

Local Authority Monitoring Officers should ensure that members required to declare pecuniary interests are aware of the sensitive interests provisions in the Localism Act 2011.

There have been a significant number of prosecutions and convictions, with a relatively high rate of successful prosecutions, for offences covering intimidatory behaviour. The Crown Prosecution Service (CPS) guidelines on cases involving social media communications rightly set a high evidential threshold and demanding public interest test, in order to ensure compatibility with the Article 10 right to freedom of expression under the European Convention on Human Rights.

We are persuaded that the CPS guidelines are reasonable and proportionate.

We commend the work of the Parliamentary Liaison and Investigation Team (PLaIT), a specialist police team based in Parliament which is building a national picture of the security threat to MPs and acts as a central point of contact and advice for individual MPs, and makes recommendations for additional security measures. However, its effectiveness requires MPs to make full use of the advice and services offered to them and to report any threats.

MPs should actively co-operate with the police and other security services working to address the security threats facing Parliamentarians and Parliamentary candidates.

There is currently inconsistency in the approach taken locally by police forces in policing intimidatory behaviour towards Parliamentary candidates. This may be due to police forces not fully understanding the context in which MPs and candidates operate, as well as a lack of understanding of social media technologies. Whilst we are mindful of pressures on police resources, better guidance and training is needed in this area.

The National Police Chiefs Council should ensure that local police forces have sufficient training to enable them to effectively investigate offences committed through social media. Local police forces should be able to access advice and guidance on the context in which MPs and Parliamentary candidates work.

There is a lack of policing guidance on offences which constitute intimidation during election periods, and local police sometimes conflate personal threats and public order offences. General election periods are a heightened environment in which candidates, in particular MPs standing for re-election, are more likely to experience intimidation.

The College of Policing Authorised Professional Practice for elections should be updated to include offences relating to intimidation, including offences committed through social media.

The rise of social media, in particular its transnational reach, has created significant challenges for policing. A most significant challenge is establishing who is responsible for sending a particular communication.

The Home Office and the Department for Digital, Culture, Media and Sport should develop a strategy for engaging with international partners to promote international consensus on what constitutes hate crime and intimidation online.

Parliamentary candidates have a broad range of expectations about what the police would be able to do in response to intimidatory behaviour they experience. Greater clarity as to what behaviour is and is not illegal, and what Parliamentary candidates can expect from their local police force, would assist Parliamentary candidates during a campaign and would result in more effective policing.

The National Police Chiefs Council, working with the Crown Prosecution Service and the College of Policing, should produce accessible guidance for Parliamentary candidates giving clear advice on behaviour they may experience during a campaign which is likely to constitute a criminal offence and what they should do in the face of such intimidation.

It is important that those who perpetrate intimidatory behaviour face proportionate legal sanctions. However, the law is a blunt instrument for dealing with much intimidatory behaviour. Policing and the law should not be seen as the primary means of addressing this issue. The primary focus must be on prevention.

Everyone in public life must play their part in **taking responsibility** for combatting intimidatory behaviour; this includes in particular MPs, leaders of political parties, and the media. They all play a role in shaping a healthy public political culture which does not open the door to intimidation.

The public's lack of trust in politics and the political system creates an environment where intimidation in public life is more likely. Everyone in public life must take responsibility for turning this around. They need to uphold high ethical standards, so that they do not undermine or bring into disrepute the institutions they are part of. This point was emphasised in the submissions to our review from members of the public.

Nobody in public life should engage in intimidatory behaviour, nor condone or tolerate it. All those in public life have a responsibility to challenge and report it wherever it occurs.

Those in public life should seek to uphold high standards of conduct, adhering to the Seven Principles of Public Life, and help prevent a decline in public trust in political institutions through their own conduct.

Those in positions of power and leadership in public life have a particular responsibility to consider how their tone is likely to shape public debate, and must not engage in political debate in a derogatory, dehumanising, or abusive way.

In particular, they must seek to stop intimidation based on prejudice or hate, which has a disproportionately negative impact on women, BAME, LGBT and other candidates from minority groups. It is essential that those in positions of leadership take steps to stop hatred and intimidation based on personal characteristics.

Those in public life must set and protect a tone in public discourse which is not dehumanising or derogatory, and which recognises the rights of others to participate in public life.

Those in public life have a responsibility not to use language which engenders hatred or hostility towards individuals because of their personal characteristics.

The broadcast and print media also have a responsibility to help tackle the intimidatory tone of public life. The freedom of the press is essential and must be protected. Nevertheless, journalists, broadcasters and editors should consider how the content they create might incite intimidation through delegitimising someone's engagement in the political process, placing undue influence on their individual characteristics, or using threatening language. While continuing their important scrutiny of those in public office, they must also be careful they are not unduly or unfairly undermining trust in the political system, especially through portraying stories about disagreements as breaches of ethical standards.

The media must also take active steps to prevent intimidation by ensuring that they do not encourage or incentivise obtaining stories through intimidation or harassment.

Press regulation bodies should extend their codes of conduct to prohibit unacceptable language that incites intimidation.

News organisations should only consider stories from freelance journalists that meet the standards of IPSO's Editors Code, or the Editorial Guidelines of Impress, as appropriate, and ensure that freelance journalists are aware of this policy.

Election campaigns are competitive and Parliamentary politics is adversarial. Candidates and MPs must be able to have robust political debate within our democracy without opening the door to intimidation. Where candidates engage in highly personalised attacks, or blur the distinctions between policy differences, professional failures and breaches of ethics, they legitimise the behaviour of others who seek to engage in intimidation. They also undermine trust in the political system.

Those in public life should not engage in highly personalised attacks, nor portray policy disagreements or questions of professional competence as breaches of ethical standards.

Summary table of recommendations and timeframes

Recommendation	Responsibility	Timeframe
Government should bring forward legislation to shift the liability of illegal content online towards social media companies.	Government	On exiting the EU
Social media companies must develop and implement automated techniques to identify intimidatory content posted on their platforms. They should use this technology to ensure intimidatory content is taken down as soon as possible.	Social media companies	Immediately
Social media companies must do more to prevent users being inundated with hostile messages on their platforms, and to support users who become victims of this behaviour.	Social media companies	Immediately
Social media companies must implement tools to enhance the ability of users to tackle online intimidation through user options.	Social media companies	Immediately
All social media companies must ensure they are able to make decisions quickly and consistently on the takedown of intimidatory content online.	Social media companies	Immediately
Twitter, Facebook and Google must publish UK-level performance data on the number of reports they receive, the percentage of reported content that is taken down, and the time it takes to take down that content, on at least a quarterly basis.	Social media companies	At least every quarter, beginning in the first quarter of 2018
Social media companies must urgently revise their tools for users to escalate any reports of potential illegal online activity to the police.	Social media companies	Immediately
The social media companies should work with the government to establish a 'pop-up' social media reporting team for election campaigns.	Social media companies	Before the next general election
Social media companies should actively provide advice, guidance and support to Parliamentary candidates on steps they can take to remain safe and secure while using their sites.	Social media companies	Before the next general election
Those in positions of leadership within political parties must set an appropriate tone during election campaigns, and make clear that any intimidatory behaviour is unacceptable. They should challenge poor behaviour wherever it occurs.	Those in positions of leadership within political parties	Immediately
Political parties must proactively work together to tackle the issue of intimidation in public life.	Political parties	Immediately

Recommendation	Responsibility	Timeframe
Political parties should set clear expectations about the behaviour expected of their members, both offline and online through a code of conduct for members which specifically prohibits any intimidatory behaviour. Parties should ensure that members are familiar with the code. The consequences of any breach of the code should be clear and unambiguous.	Political parties	Within one year
Political parties must ensure that party members who breach the party's code of conduct by engaging in intimidation are consistently and appropriately disciplined in a timely manner.	Political parties	Immediately
Political parties must collect data on the number of complaints against members for engaging in intimidatory behaviour, and the outcome of any disciplinary processes which result from these complaints.	Political parties	Within one year
Leaders of political parties should always call out intimidatory behaviour, even when it is perpetrated by those in the party's fringes. Fringe group leaders and spokespeople should immediately denounce any intimidatory behaviour on the part of their members or supporters.	Political parties	Immediately
The political parties must work together to develop a joint code of conduct on intimidatory behaviour during election campaigns by December 2018. The code should be jointly enforced by the political parties.	Political parties	Joint code should be drawn up within one year – it should be enforced beginning at the next general election
Political parties must take steps to provide support for all candidates, including through networks, training, and support and resources. In particular, the parties should develop these support mechanisms for female, BAME, and LGBT candidates who are more likely to be targeted as subjects of intimidation.	Political parties	Before the next general election
Political parties must offer more support and training to candidates on their use of social media. This training should include: managing social media profiles, block and mute features, reporting content, and recognising when behaviour should be reported directly to the police.	Political parties	At the next general election

Recommendation	Responsibility	Timeframe
The government should consult on the introduction of a new offence in electoral law of intimidating Parliamentary candidates and party campaigners.	Government	Within one year
The government should bring forward legislation to remove the requirement for candidates standing as local councillors to have their home addresses published on the ballot paper. Returning Officers should not disclose the home addresses of those attending an election count.	Government	Immediately
Local Authority Monitoring Officers should ensure that members required to declare pecuniary interests are aware of the sensitive interests provisions in the Localism Act 2011.	Local Authority Monitoring Officers	Immediately
MPs should actively co-operate with the police and other security services working to address the security threats facing Parliamentarians and Parliamentary candidates.	MPs	Immediately
The National Police Chiefs Council should ensure that local police forces have sufficient training to enable them to effectively investigate offences committed through social media. Local police forces should be able to access advice and guidance on the context in which MPs and Parliamentary candidates work.	National Police Chiefs Council	Within one year
The College of Policing Authorised Professional Practice for elections should be updated to include offences relating to intimidation, including offences committed through social media.	College of Policing	Before the next general election
The Home Office and the Department for Digital, Culture, Media and Sport should develop a strategy for engaging with international partners to promote international consensus on what constitutes hate crime and intimidation online.	Home Office and the Department for Digital, Culture, Media and Sport	Immediately
The National Police Chiefs Council, working with the Crown Prosecution Service and the College of Policing, should produce accessible guidance for Parliamentary candidates giving clear advice on behaviour they may experience during a campaign which is likely to constitute a criminal offence.	National Police Chiefs Council, working with the Crown Prosecution Service and the College of Policing	Before the next general election
Nobody in public life should engage in intimidatory behaviour, nor condone or tolerate it. All those in public life have a responsibility to challenge and report it wherever it occurs.	All those in public life	Immediately

Recommendation	Responsibility	Timeframe
Those in public life should seek to uphold high standards of conduct, adhering to the Seven Principles of Public Life, and help prevent a decline in public trust in political institutions through their own conduct.	All those in public life	Immediately
Those in public life must set and protect a tone in public discourse which is not dehumanising or derogatory, and which recognises the rights of others to participate in public life.	All those in public life	Immediately
Those in public life have a responsibility not to use language which engenders hatred or hostility towards individuals because of their personal characteristics.	All those in public life	Immediately
Press regulation bodies should extend their codes of conduct to prohibit unacceptable language that incites intimidation.	Press regulation bodies (IPSO and Impress)	By December 2018
News organisations should only consider stories from freelance journalists that meet the standards of IPSO's Editors Code, or the Editorial Guidelines of Impress, as appropriate, and ensure that freelance journalists are aware of this policy.	News organisations	Immediately
Those in public life should not engage in highly personalised attacks, nor portray policy disagreements or questions of professional competence as breaches of ethical standards.	All those in public life	Immediately

Agenda Item 4

Committee: Standards

Date:

Title: Review of Local Government Ethical
Standards: Stakeholder Consultation

16 April 2018

Author: Monitoring Officer

Item for decision

Summary

The Committee on Standards in Public Life has launched a stakeholder consultation as part of a review of local government ethical standards. The deadline for submissions is Friday 18 May. Members have raised issues about ethical standards previously, especially around the absence of sanctions. This is an ideal opportunity for members to put forward their views and advocate any change they feel is needed.

Recommendations

1. That the Monitoring Officer is authorised to draft a response, on behalf of the Committee and the Council, to the stakeholder consultation by the Committee on Standards in Public Life on local government ethical standards.
2. That the Monitoring Officer consults the Chairman of the Standards Committee in preparing the response to ensure that it reflects the views of the Committee.

Financial Implications

3. None

Background Papers

4. None

Impact

- 5.

Communication/Consultation	This report seeks to involve Standards Committee members in responding to the consultation being undertaken by the Committee on Standards in Public Life.
Community Safety	None
Equalities	A sound ethical framework will help to promote equalities.
Health and Safety	None
Human Rights/Legal	It is important that the ethical framework

Implications	recognises and respects human rights legislation.
Sustainability	None
Ward-specific impacts	None
Workforce/Workplace	None

Situation

6. The Committee on Standards in Public Life has launched a stakeholder consultation as part of a review of local government ethical standards. The deadline for submissions is Friday 18 May. Members have raised issues about ethical standards previously, especially around the absence of sanctions. This is an ideal opportunity for members to put forward their views and advocate any change they feel is needed.
7. The appendix to this report sets out the terms of reference of the review being carried out by the Committee on Standards in Public Life, along with the consultation questions.
8. This is the last meeting of the Standards Committee before the deadline. Members are therefore asked to consider the points they would like to make in response.
9. A link to the consultation has been sent to all councillors. They have been invited to identify any matters that they would like the Standards Committee to consider when drawing up its response.
10. Further work is likely to be needed following the meeting to put the response into final form. The recommendation, therefore, is that the Monitoring Officer is authorised to prepare a final draft for submission in consultation with the Chairman of the Standards Committee. Further consultation with members of the Standards Committee may also be needed to ensure that the submission reflects members' views.
11. An alternative approach would be to set up a small task group to prepare a draft response.

Risk Analysis

12.

Risk	Likelihood	Impact	Mitigating actions
That the views of the Council are not made clearly known to the Committee on Standards in	2	2	Consultation with all members of the Council. Involvement of the Standards Committee in drawing up the consultation

Public Life			response.
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- 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.

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.

The Committee will publish anonymised submissions (where the name of the respondent and any references to named individuals or local authorities are removed) where a respondent makes a reasonable request to do so.

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);

- Independent Persons appointed under section 28(7) of the Localism Act 2011;
- 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).

