

**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.