

Agenda



AGENDA for the STANDARDS COMMITTEE meeting to be held in COMMITTEE ROOM A, COUNTY HALL, HERTFORD on THURSDAY, 16 NOVEMBER 2017 at 2.00PM

MEMBERS OF THE COMMITTEE (5) - QUORUM 3

N Bell, D J Hewitt (Chairman), A Plancey, R G Parker, W J Wyatt-Lowe (Vice-Chairman)

AGENDA

AUDIO SYSTEM

The meeting room has an audio system to assist those with hearing impairment. Anyone who wishes to use this should contact Main (front) Reception.

PART 1 (PUBLIC) AGENDA

Meetings of the Committee are open to the public (this includes the press) and attendance is welcomed. However, there may be occasions when the public are excluded from the meeting for particular items of business. Any such items are taken at the end of the public part of the meeting and are listed under "Part II ('closed') agenda".

1. MINUTES

To confirm the minutes of the Committee held on 27 February 2017.
(attached)

2. GENERAL DISPENSATIONS

Report of the Chief Legal Officer

3. STANDARDS UPDATE

Report of the Chief Legal Officer

4. OTHER PART I BUSINESS

Such other Part I Business which, if the Chairman agrees, is of sufficient urgency to warrant consideration.

**PART II ('CLOSED') AGENDA
EXCLUSION OF PRESS AND PUBLIC**

No Part II business has been notified. If Part II business is notified, the Chairman will move:-

“That under Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item/s of business on the grounds that it/they involve/s the likely disclosure of exempt information as defined in paragraph of Part 1 of Schedule 12A to the said Act and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.”

If you require a copy of any of the reports mentioned above or require further information about this agenda please contact Elaine Shell, Democratic Services Manager, on telephone no. 01992 555565 or e-mail elaine.shell@hertfordshire.gov.uk. Agenda documents are also available on the internet at <https://cmis.hertsdirect.org/hertfordshire/CabinetandCommittees.aspx>

**KATHRYN PETTITT
CHIEF LEGAL OFFICER**

Minutes



To: All Members of the Standards Committee, Chief Executive, Chief Officers

From: Legal, Democratic & Statutory Services
Ask for: Elaine Shell
Ext: 25565

STANDARDS COMMITTEE 27 FEBRUARY 2017

ATTENDANCE

MEMBERS OF THE COMMITTEE

R H Beeching (Vice-Chairman), D J Hewitt (Chairman), A Plancey, L Reefe (substituting for N Bell), D T F Scudder,

OTHERS PRESENT

Independent Person: T Morris

Upon consideration of the agenda for the Standards Committee meeting on 27 February 2017 as circulated, copy annexed, conclusions were reached and are recorded below:

Note: No conflicts of interest were declared by any member of the Committee in relation to the matters on which decisions were reached at this meeting.

PART I ('OPEN') BUSINESS

1. MINUTES

- 1.1 The Minutes of the Committee meeting held on 22 February 2016 were confirmed as a correct record and were signed by the Chairman.

2. CODE OF CONDUCT FOR MEMBERS

[Officer Contact: Kathryn Pettitt, Chief Legal Officer (Tel: 01992 555527)]

- 2.1 The Committee received a report which sought its views on the revised Code of Conduct for members and requested that it ask Council to approve the revised Code of Conduct.
- 2.2 The Chief Legal Officer introduced the report explaining the background as to the proposed revisions to the Code of Conduct for Members. The committee

**CHAIRMAN'S
INITIALS**

.....

heard that the current Code of Conduct for Members was adopted by Council on 15 May 2012 and came into effect on 1 July 2012. The Council chose at that time to adopt the template Code of Conduct which had been produced by the Department of Communities and Local Government. Following a recent review of the Code, discussions with members, the Independent Person, consideration of the nature of the complaints that have been raised since 2012 and consideration of Codes of Conduct adopted by other authorities, the Chief Legal Officer considered that the Code of Conduct should be amended as set out in this Report.

- 2.3 There was discussion about the necessity for members who were processing personal data on their own behalf (e.g. in relation to dealing with matters relating to their division) to register with the Information Commissioner's Office as data controllers under the Data Protection Act 1998. Members requested that guidance be issued as part of the induction programme for new members in May 2017 as to when they should register in their own right with the Information Commissioner under the Data Protection Act 1998 and when the registration fee could be reimbursed by the County Council.

2.4 **RESOLVED**

That the Committee recommends to Council:-

1. That subject to the following amendments:
 - 1.1 replace the word 'private' in paragraph 2.7 with the word 'personal'
 - 1.2 reword paragraph 3.2 so that it reads:
'You must comply with all other policies of or guidance issued by the authority (or part of any such policy or guidance) which sets out required conduct or standards from members'

that Council adopts the Code of Conduct for Members attached as Annex 1 to the Report with effect from the date that Members assume office following the election on 4 May 2017 and that the revised Code of Conduct be adopted as Annex 18 to the Constitution.

2. That the Chief Legal Officer be authorised to make any amendments necessary to ensure that the change mentioned in 1 above is reflected consistently throughout the Constitution.

3. **GUIDANCE ON MEMBER INTERESTS**

[Officer Contact: Kathryn Pettitt, Chief Legal Officer (Tel: 01992 555527)]

- 3.1 The Committee received a report which sought its views on the draft guidance notes in preparation relating to Disclosable Pecuniary Interest (DPI's).

- 3.2 Members of the Council noted that they were required by law to declare Disclosable Pecuniary Interests. Whilst the responsibility was on each member individually to decide on what information should be included on their Disclosable Pecuniary Interest form the Chief Legal Officer has been asked to issue some guidance notes to members. Members discussed the form and different categories under which interests should be disclosed.

RESOLVED

- 3.3 The Committee noted the form

4. STANDARDS UPDATE

[Officer Contact: Kathryn Pettitt, Chief Legal Officer (Tel: 01992 555527)]

- 4.1 The Committee received a report updating them on issues relating to the standards regime including the number and types of complaints that had been received since April 2015, the review of the protocol with Hertfordshire Police relating to Disclosable Pecuniary Interest Offences, the inclusion of a reminder to declare interests on all Reports and training for members on standards matters after the May election.

- 4.2 During discussion members suggested that the issue of good communication, could be covered in the members training sessions.

RESOLVED

That the Committee noted the report.

5. OTHER PART I BUSINESS

- 4.1 There was no other business.

**KATHRYN PETTITT
CHIEF LEGAL OFFICER**

CHAIRMAN _____

**CHAIRMAN'S
INITIALS**

.....

HERTFORDSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE
THURSDAY, 16 NOVEMBER 2017 AT 2.00P.M.

Agenda Item No:

2

GENERAL DISPENSATIONS

Report of the Chief Legal Officer

Author: Kathryn Pettitt, Chief Legal Officer (Tel: 01992 555527)

1. Purpose of Report

- 1.1 To consider the grant of and to seek a renewal of dispensations granted under s33 of the Localism Act 2011.

2. Summary

- 2.1 The Localism Act 2011 (the '2011 Act') introduced the concept of Disclosable Pecuniary Interests ('DPIs'). The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 defined those interests that would constitute DPIs under the 2011 Act. It is a criminal offence for Members to speak and/or vote where they have a DPI unless they have obtained a dispensation under s33 of the 2011 Act.
- 2.2 The Council has delegated the power to the Standards Committee to grant dispensations in respect of DPIs. It is proposed that the Chief Legal Officer be authorised to grant dispensations to enable Members to participate in meetings and to speak and vote where they would otherwise have a DPI in the circumstances mentioned in this report where otherwise the failure to grant such dispensations is likely to prohibit the effective running of the Council.

3. Recommendations

- 3.1 1. That the Chief Legal Officer be authorised to grant dispensations from the provisions of Sections 31(4)(a) and (b) of the Localism Act 2011 until the date of the County Council election in 2021 to allow all Members in receipt of an allowance:
 - (a) under the Hertfordshire County Council Members' Allowances Scheme; or
 - (b) under the Members Allowances Scheme of another local authority in Hertfordshire; or
 - (c) from a body to which they have been appointed to by the Hertfordshire County Council

to participate in debate and vote on:

- (i) any business of the County Council relating to setting the council tax or a precept;
- (ii) allowances, payments or indemnities given to Members of the Council; and
- (iii) any business of the County Council where they may otherwise be prevented from doing so in consequence of being in receipt of an allowance as mentioned in (a) to (c) above.

- 3.2 2. That the Chief Legal Officer be authorised to grant dispensations from the provisions of Sections 31(4)(a) and (b) of the Localism Act 2011 until the date of the County Council election in 2021 to allow all Members to participate and vote in any business of the County Council relating to setting the council tax or precept when they would otherwise be prevented from doing so in consequence of a beneficial interest or licence of any land within the administrative area of Hertfordshire.

4. Background

- 4.1 The 2011 Act introduced the concept of DPIs and the Disclosable Pecuniary Interest Regulations 2012 define the categories of interest which comprise DPIs. One of the categories of disclosable pecuniary interests is:

‘Any employment, office, trade, profession or vocation carried on for profit or gain’.

- 4.2 Since the 2011 Act was brought in there has been some discussion around some of the provisions in the 2011 Act relating to standards, what the DPI categories encompass and their impact on certain items of Council business. The Government has not issued any guidance on the issue of whether the payment of an allowance (whether basic or Special Responsibility Allowance) is within the DPI category referred to above as an ‘office..... **carried on for profit or gain**’ and there is no judicial interpretation on the point. There are different views and authorities and members have taken different approaches.
- 4.3 It is a criminal offence for a Member who is present at a meeting where an item of business in which he/she has a DPI participates in any discussion of that matter or votes on the matter at the meeting. These restrictions, however, do not apply where the Member has applied for and been granted a dispensation.

4.5 Given the lack of clarity around the issue, the advice of the Chief Legal Officer (as Monitoring Officer) is that for the avoidance of doubt, a dispensation be granted to allow all Members in receipt of an allowance:

- (a) under the Hertfordshire County Council Members' Allowances Scheme; or
- (b) under the Members Allowances Scheme of another local authority in Hertfordshire; or
- (c) from a body to which they have been appointed to by the County Council

to participate and vote on:

- (i) any business of the County Council relating to setting the council tax or a precept;
- (ii) allowances, payments or indemnities given to Members of the Council; and
- (iii) any business of the County Council where they may otherwise be prevented from doing so in consequence of being in receipt of an allowance as mentioned in (a) to (c) above.

4.6 Included in the list of DPIs which Members are required to register are any beneficial interest or any licence (alone or jointly with others) to occupy land for a month or longer which the Member, his/her spouse or civil partner or person with whom they are living as such has within the administrative area of the County Council. Again there are differing interpretations as to whether these DPIs would have an impact on Members' participation in business relating to the setting of council tax and precepts. Whilst Department for Communities and Local Government (DCLG) Guidance is that being a council tax payer does not create a DPI in budget debates the position is not certain and there is no judicial interpretation.

4.7 Given the lack of clarity referred to in paragraph 4.6 the Chief Legal Officer (as Monitoring Officer) considers that for the avoidance of doubt it would be appropriate to grant a general dispensation to participate and vote in the setting of the Council tax and precept when they would otherwise be prevented from doing in consequence of a beneficial interest in or holding a licence of land within the county.

5. Application for Dispensation

5.1 The 2011 Act provides that following a written request made to the proper officer dispensations can be granted to enable Members to participate in meetings where they have a DPI provided that certain

grounds are satisfied. The grounds for the grant of a dispensation are, if having regard to all the relevant circumstances, the Council considers that:

- 5.1.1 without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business;.
 - 5.1.2 without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;
 - 5.1.3 the grant of the dispensation would be in the interests of the persons living in the authority's area;
 - 5.1.4 without dispensation each member of the authority's executive would be prohibited from participating in any particular business to be transacted by the authority's executive;
 - 5.1.5 it is otherwise appropriate to grant a dispensation.
- 5.2 The Monitoring Officer considers that the grounds set out in paragraphs 5.1.1, 5.1.3 and 5.1.4 above apply to the proposed dispensations. The effect of not granting the dispensations recommended above would be that there is a risk that the business of the Council would be impeded.
- 5.3 Dispensations can be granted for a period of up to four years. General dispensations which were granted in the previous Council were granted for the period up to the County Council elections in 2017. The Chief Legal Officer considers that the general dispensations referred to in this report should likewise be granted for the period up to the County Council elections in 2021.
- 5.4 If the Committee considers that it is appropriate to authorise the Monitoring Officer to grant dispensations as set out in this Report the Monitoring Officer will advise members accordingly.

6. Financial Implications

- 6.1 None.

Background Information

Chapter 7 Localism Act 2011 and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012

<http://www.legislation.gov.uk/ukxi/2012/1464/made/data.pdf>

HERTFORDSHIRE COUNTY COUNCIL
STANDARDS COMMITTEE
THURSDAY, 16 NOVEMBER 2017 AT 2.00PM

Agenda Item No.

3

STANDARDS UPDATE

Report of the Chief Legal Officer

Author: Kathryn Pettitt, Chief Legal Officer (Tel. 01992 555527)

1. Purpose of Report

- 1.1 To provide an update to Members on standards issues generally.

2. Recommendation

- 2.1 Members are asked to note the report and for their views on the matters mentioned in the Report.

3. Summary and Background

Member Training

- 3.1 A training session on standards and the Members Code of Conduct was included as part of the member induction programme following the County Council election in May 2017. The Chief Legal Officer has also offered to attend Group Meetings to discuss the Code of Conduct and other standards issues (e.g. declarations of interests at meetings).

Protocol with Hertfordshire Police in relation to DPI offences

- 3.2 The Protocol which has been in place between Hertfordshire Constabulary and the Hertfordshire Monitoring Officers for the referral of potential Disclosable Pecuniary Interest offences under the Localism Act 2011 has recently been reviewed and as a result some minor amendments have been made to clarify the process when a police referral is made. The revised protocol is currently being circulated for signature by Monitoring Officers.

DCLG Consultation

- 3.3 The Department of Communities and Local Government (DCLG) is currently consulting on proposals to update the criteria that bar individuals from becoming or being a local councillor or directly-elected mayor. A copy of the consultation paper is appended to this Report. Currently, individuals cannot stand for, or hold, office as a local authority member if they have, within the previous five years or since

their election, been convicted of an offence that carries a prison sentence of at least three months without a fine and whether suspended or not.

3.4 The Government is proposing to amend the disqualification criteria so that anyone convicted of a serious crime, regardless of whether it comes with a custodial sentence, will not be able to serve as a councillor. Individuals will be banned from standing for office if they are subject to:

- the notification requirements set out in the Sexual Offences Act 2003 (being on the sex offenders register);
- a civil injunction granted under s.1 of the Anti-social Behaviour, Crime and Policing Act 2014 (the 2014 Act); or
- a Criminal Behaviour Order made under s.22 of the 2014 Act.

3.5 The new rules would apply to councillors and mayors in parish, district, county and unitary councils, London boroughs, combined authorities and the Greater London Assembly. The proposed changes would not be retrospective. The closing date for comments on the disqualification criteria is 8 December 2017.

4. Financial Implications

4.1 None arising from this report.

Background Information

None



Department for
Communities and
Local Government

Appendix

Disqualification criteria for Councillors and Mayors

Consultation on updating disqualification criteria for local
authority members



© Crown copyright, 2017

Copyright in the typographical arrangement rests with the Crown.

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, <http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/> or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

This document/publication is also available on our website at www.gov.uk/dclg

If you have any enquiries regarding this document/publication, complete the form at <http://forms.communities.gov.uk/> or write to us at:

Department for Communities and Local Government
Fry Building
2 Marsham Street
London
SW1P 4TF
Telephone: 030 3444 0000

For all our latest news and updates follow us on Twitter: <https://twitter.com/CommunitiesUK>

September 2017

ISBN: 978-1-4098-5102-8

Agenda Pack 13 of 28

Contents

Scope of the consultation	4
Basic Information	5
Introduction	7
The Current Disqualification Criteria	9
Sexual Offences	11
Anti-Social Behaviour	13
Retrospection	15
Questions	16
About this consultation	17

Scope of the consultation

A consultation paper issued by the Department for Communities and Local Government on behalf of the Secretary of State

Topic of this consultation:	This consultation paper sets out the government’s proposals for updating the criteria disqualifying individuals from standing for, or holding office as, a local authority member, directly-elected mayor or member of the London Assembly.
Scope of this consultation:	<p>The Department for Communities and Local Government is consulting on proposals to update the criteria disqualifying individuals from standing for, or holding office as, a local authority member, directly-elected mayor or member of the London Assembly, if they are subject to:</p> <ul style="list-style-type: none"> • the notification requirements set out in the Sexual Offences Act 2003 (commonly referred to as ‘being on the sex offenders register’); • a civil injunction granted under section 1 of the Anti-social Behaviour, Crime and Policing Act 2014; or • a Criminal Behaviour Order made under section 22 of the Anti-social Behaviour, Crime and Policing Act 2014. <p>Any changes to the disqualification criteria would require changes to primary legislation, in particular the Local Government Act 1972, the Local Democracy, Economic Development and Construction Act 2009, and the Greater London Authority Act 1999.</p> <p>The proposed changes would not act retrospectively.</p>
Geographical scope:	The proposals in this consultation paper apply to certain authorities in England, including local authorities, combined authorities and the Greater London Authority. They do <u>not</u> apply to authorities in Wales, Scotland or Northern Ireland.
Impact Assessment:	No impact assessment has been produced for this consultation.

Basic Information

To:	This consultation is open to everyone. We particularly seek the views of individual members of the public, prospective and current councillors and those bodies that represent the interests of local authorities and councillors at all levels.
Body responsible for the consultation:	The Local Government Stewardship Division in the Department for Communities and Local Government is responsible for conducting the consultation.
Duration:	The consultation will begin on Monday 18 September 2017. The consultation will run for 12 weeks and will close on Friday 8 December 2017. All responses should be received by no later than 5pm on Friday 8 December 2017.
Enquiries:	<p>If you have any enquiries, please contact:</p> <p>Stuart Young email: stuart.young@communities.gsi.gov.uk</p> <p>DCLG Tel: 0303 44 40000</p> <p>How to respond:</p> <p>Please respond by email to: Section80consultation@communities.gsi.gov.uk</p> <p>Alternatively, please send postal responses to:</p> <p>Stuart Young Department for Communities and Local Government 2nd Floor, NE, Fry Building 2 Marsham Street London SW1P 4DF</p> <p>Responses should be received by 5pm on Friday 8 December 2017.</p>
How to respond:	<p>You can respond by email or by post.</p> <p>When responding, please make it clear which questions you are responding to.</p> <p>When you reply it would be very useful if you could confirm whether you are replying as an individual or submitting an</p>

	<p>official response on behalf of an organisation, and include:</p> <ul style="list-style-type: none">- your name- your position (if applicable)- the name and address of your organisation (if applicable)- an address, and- an email address (if you have one)
--	--

Introduction

1. Local authority members (i.e. councillors), mayors of combined authorities, members of the Greater London Assembly and the London Mayor take strategic decisions that affect all our lives. They decide how best to use taxpayers' money and manage local authority resources, including property, land and assets. They also have a leading role to play in building and preserving a society where the rights and freedoms of individuals are respected. They should be community champions. It is vital, therefore, that they have the trust of the electorate.
2. The Government considers that there should be consequences where councillors, mayors and London Assembly members fall short of the behaviour expected of anyone in a free, inclusive and tolerant society that respects individuals and society generally, and where this has led to enforcement action against an individual.
3. Existing legislation prevents individuals standing, or holding office, as a local authority member, London Assembly member or directly-elected mayor if they have, within five years of the day of the election, or since their election, been convicted in the UK, Channel Islands or Isle of Man of any offence and have received a sentence of imprisonment, suspended or not, for a period of not less than three months without the option of a fine.
4. The Government considers that the law should be updated to reflect new options which exist to protect the public and address unlawful and unacceptable behaviour.
5. This consultation proposes updating the disqualification criteria in section 80 of the Local Government Act 1972, paragraph 9 of schedule 5B to the Local Democracy, Economic Development and Construction Act 2009, and section 21 of the Greater London Authority Act 1999 to prohibit those subject to the notification requirements (commonly referred to as 'being on the sex offenders register') and those subject to certain anti-social behaviour sanctions from being local authority members, London Assembly members or directly-elected mayors.
6. This consultation does not propose changing the disqualification criteria for Police and Crime Commissioners (PCCs). For the purposes of this consultation, 'local authority member' also extends to directly-elected mayors and co-opted members of authorities, and 'local authority' means:
 - a county council
 - a district council
 - a London Borough council
 - a parish council

The disqualification criteria in section 80 of the Local Government Act 1972, paragraph 9 of schedule 5B to the Local Democracy, Economic Development and Construction Act 2009, and section 21 of the Greater London Authority Act 1999 do not cover the Council of the Isles of Scilly or the Common Council of the City of

London. Therefore, the proposals in this consultation do not extend to these councils.

The Current Disqualification Criteria

7. Under section 80 of the Local Government Act 1972, a person is disqualified from standing as a candidate or being a member of a local authority, if they:
 - are employed by the local authority;
 - are employed by a company which is under the control of the local authority;
 - are subject to bankruptcy orders;
 - have, within 5 years before being elected, or at any time since being elected, been convicted in the UK, Channel Islands or Isle of Man of any offence and have received a sentence of imprisonment (suspended or not) for a period of not less than three months without the option of a fine;
 - are disqualified under Part III of the Representation of the People Act 1983;
 - are employed under the direction of various local authority committees, boards or the Greater London Authority; or
 - are a teacher in a school maintained by the local authority.

8. Paragraph 9 of schedule 5B to the Local Democracy, Economic Development and Construction Act 2009 sets out the criteria on disqualification from standing as, or being, a directly-elected mayor of a combined authority. A person is disqualified from being elected or holding office as the mayor of a combined authority if they:
 - hold any paid office or employment (other than the office of mayor or deputy mayor), including any appointments or elections made by or on behalf of the combined authority or any of the constituent councils of the combined authority;
 - are subject to bankruptcy orders;
 - have, within 5 years before being elected, or at any time since being elected, been convicted in the UK, Channel Islands or Isle of Man of any offence and have received a sentence of imprisonment (suspended or not) for a period of not less than three months without the option of a fine; or
 - is disqualified for being elected or for being a member of a constituent council under Part 3 of the Representation of the People Act 1983.

9. Section 21 of the Greater London Authority Act 1999 disqualifies someone from being the Mayor or an Assembly member if they:
 - are a member of staff of the Authority;
 - hold an office that disqualifies the holder from being Mayor or an Assembly member;
 - are subject to bankruptcy orders are bankrupt or have made a composition agreement with creditors;
 - have, within 5 years before being elected, or at any time since being elected, been convicted in the UK, Channel Islands or Isle of Man of any offence and have received a sentence of imprisonment (suspended or not) for a period of not less than three months without the option of a fine;
 - are disqualified under section 85A or Part III of the Representation of the People Act 1983 from being the Mayor or an Assembly member; or

- are a paid officer of a London borough council who is employed under the direction of:
 - a council committee or sub-committee whose membership includes the Mayor or someone appointed on the nomination of the Authority;
 - a joint committee whose membership includes a member appointed on the nomination of the council and a member appointed on the nomination of the Authority;
 - the council executive, or one of its committees, whose membership includes the Mayor or someone appointed on the nomination of the Authority;
 - a member of the council's executive who is the Mayor or someone appointed on the nomination of the Authority.

Sexual Offences

10. The Government considers that anyone who is subject to sex offender notification requirements, commonly referred to as 'being on the sex offenders register', should be barred from standing for election, or holding office, as a local authority member, directly-elected mayor or member of the London Assembly. The period of time for which they would be barred would end once they were no longer subject to these notification requirements.

11. An individual can become subject to notification requirements by committing certain criminal acts or being issued with certain types of civil order:

- Being subject to sex offender notification requirements is an automatic consequence of being cautioned or convicted of a sexual offence listed in Schedule 3 of the Sexual Offences Act 2003 (see: <http://www.legislation.gov.uk/ukpga/2003/42/schedule/3>).
- Sexual Harm Prevention Orders are civil orders intended to protect the public from offenders convicted of a sexual or violent offence who pose a risk of sexual harm to the public by placing restrictions on their behaviour. Offenders who are subject to Sexual Harm Prevention Orders become subject to notification requirements.
- Notification Orders are civil orders intended to protect the public in the UK from the risks posed by sex offenders who have been convicted, cautioned, warned or reprimanded for sexual offences committed overseas. Such offenders may be British or foreign nationals convicted, cautioned etc. abroad of a relevant offence. Offenders who are subject to Notification Orders become subject to notification requirements.

12. The duration of the notification requirement period (i.e. how long a person is on the sex offenders register) is set out in the Sexual Offences Act 2003 and in the table below. The courts have no discretion over this.

Where the (adult) offender is:	The notification period is:
Sentenced to imprisonment for life or to a term of 30 months or more	An indefinite period
Detained in a hospital subject to a restriction order	An indefinite period
Sentenced to imprisonment for more than 6 months but less than 30 months imprisonment	10 years
Sentenced to imprisonment for 6 months or less	7 years
Detained in a hospital without being subject to a restriction order	7 years
Cautioned	2 years

Conditional discharge	The period of the conditional discharge
Any other description (i.e. community sentence, fine)	5 years

These periods are halved for offenders who are under 18 on the date of the caution, conviction or finding, as defined within the 2003 Act.

13. Offenders who are subject to the notification requirements must notify the police of (amongst other things) their: name, date of birth, national insurance number, home address, passport number, bank account and credit card details. They must do this annually, any time the details change or when they travel abroad. They must also notify the police when they stay or reside with a child for more than 12 hours.
14. Further information on the Sexual Offences Act 2003 can be found at: <https://www.gov.uk/government/publications/guidance-on-part-2-of-the-sexual-offences-act-2003>.
15. The Government does not propose including another type of civil order, the Sexual Risk Order, as this person would not have been convicted or cautioned of a sexual offence under the Sexual Offences Act 2003 and are not subject to notification requirements for registered sex offenders. A Sexual Risk Order does require the individual to notify to the police their name and their home address. A Sexual Risk Order can be sought by the police against an individual who has not been convicted, cautioned etc. of an offence under Schedule 3 or Schedule 5 of the 2003 Act but who is nevertheless thought to pose a risk of harm to the public in the UK and/or children or vulnerable adults abroad.

Q1. Do you agree that an individual who is subject to the notification requirements set out in the Sexual Offences Act 2003 (i.e. who is on the sex offenders register) should be prohibited from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor?

Q2. Do you agree that an individual who is subject to a Sexual Risk Order should not be prohibited from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor?

Anti-Social Behaviour

16. Anti-social behaviour blights people's lives and can leave victims feeling powerless. These are a range of powers to the courts, police and local authorities to tackle the problems in the table below.

17. The Government considers that an individual who is subject to an anti-social behaviour sanction that has been issued by the court, i.e. a Civil Injunction or a Criminal Behaviour Order, should be barred from standing for election, or holding office, as a local authority member, directly-elected mayor or member of the London Assembly. The period of time for which they would be barred would end once they were no longer subject to the injunction or Order.

Anti-Social Behaviour (ASB) Powers

Type	Power	Description
Issued by the court to deal with individuals	Civil Injunction	A civil order with a civil burden of proof. The injunction can include both prohibitions and positive requirements to tackle the underlying causes of the behaviour. Applications can be made by police, councils, social landlords, Transport for London, Environment Agency, Natural Resources Wales and NHS Protect.
	Criminal Behaviour Order	A court order available on conviction. The order can be issued by any criminal court against a person who has been convicted of an offence. It is aimed at tackling the most persistently anti-social individuals who are also engaged in criminal activity. The order can include both prohibitions and positive requirements. Applications are made by the prosecution, in most cases by the Crown Prosecution Service, either at its own initiative or following a request from the police or council.
Used by the police to move problem groups or individuals on	Dispersal Power	A flexible power which the police can use in a range of situations to disperse anti-social individuals and provide immediate short-term respite to a local community. It allows the police to deal instantly with someone's behaviour and prevent it escalating. The use of the power must be authorised by an officer of at least inspector rank, to be used in a specific locality for up to 48 hours or on a case by case basis. This is to ensure that the power is used fairly and proportionately and only in circumstances in which it is necessary.

Issued by councils, the police and social landlords to deal with problem places	Community Protection Notice	A notice designed to deal with particular problems which negatively affect the community's quality of life. The Notice can be issued to anyone aged 16 or over, businesses or organisations. This is a two-stage power and a written warning has to be issued first. Failure to stop the behaviour or take action to rectify the problem would lead to the notice being issued. The power can be used by councils, police and social landlords (if designated by the council).
	Public Spaces Protection Order	Designed to deal with anti-social behaviour in a public place and apply restrictions to how that public space can be used to stop or prevent anti-social behaviour. The order is issued by the council. Before the order can be made, the council must consult with the police and whatever community representatives they think appropriate, including regular users of the public space. Before the order is made the council must also publish the draft order.
	Closure Power	A fast and flexible two-stage power. Can be used to quickly close premises which are being used, or likely to be used, to commit nuisance or disorder, including residential, business and licensed premises. The police and councils are able to issue Closure Notices for up to 48 hours and the courts are able to issue Closure Orders for up to six months if satisfied that the legal tests have been met. Following the issue of a Closure Notice, an application must be made to the magistrates' court for a closure order.

Q3. Do you agree that an individual who has been issued with a Civil Injunction (made under section 1 of the Anti-social Behaviour, Crime and Policing Act 2014) or a Criminal Behaviour Order (made under section 22 of the Anti-social Behaviour, Crime and Policing Act 2014) should be prohibited from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor?

Q4. Do you agree that being subject to a Civil Injunction or a Criminal Behaviour Order should be the only anti-social behaviour-related reasons why an individual should be prohibited from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor?

Retrospection

18. Legislation does not generally apply retrospectively, the principle being that the law should operate in a clear and certain manner and the public is entitled to know the state of the law at a particular time.
19. The proposals in this consultation would not apply retrospectively, i.e. any incumbent local authority member, directly-elected mayor or member of the London Assembly, who is on the sex offenders register or subject to a Civil Injunction or Criminal Behaviour Order at the time the changes come into force would not be affected.
20. Such individuals would of course be prevented from standing for re-election after the changes came into force.

Questions

Q1. Do you agree that an individual who is subject to the notification requirements set out in the Sexual Offences Act 2003 (i.e. is on the sex offenders register) should be prohibited from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor?

Q2. Do you agree that an individual who is subject to a Sexual Risk Order should not be prohibited from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or the London Mayor?

Q3. Do you agree that an individual who has been issued with a Civil Injunction (made under section 1 of the Anti-social Behaviour, Crime and Policing Act 2014) or a Criminal Behaviour Order (made under section 22 of the Anti-social Behaviour, Crime and Policing Act 2014) should be prohibited from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor?

Q4. Do you agree that being subject to a Civil Injunction or a Criminal Behaviour Order should be the only anti-social behaviour-related reasons why an individual should be prohibited from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor?

Q5. Do you consider that the proposals set out in this consultation paper will have an effect on local authorities discharging their Public Sector Equality Duties under the Equality Act 2010?

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

About this consultation

This consultation document and consultation process have been planned to adhere to the Consultation Principles issued by the Cabinet Office.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department for Communities and Local Government will process your personal data in accordance with DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.
Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed the Consultation Principles? If not or you have any other observations about how we can improve the process please contact us via the [complaints procedure](#).