

AGENDA FOR

STANDARDS COMMITTEE

Contact:: Leigh Webb
Direct Line: 016 253 5399
E-mail: l.m.webb@bury.gov.uk
Web Site: www.bury.gov.uk

To: All Members of Standards Committee

Councillors: T Cummings, J Harris, D Gunther, R Hodgkinson,
T Holt, D Jones, J Kelly, T Pickstone and Y Wright

Dear Member/Colleague

Standards Committee

You are invited to attend a meeting of the Standards Committee which will be held as follows:-

Date:	Thursday, 28 September 2017
Place:	Irwell Room - Town Hall
Time:	6.00 pm
Briefing Facilities:	If Opposition Members and Co-opted Members require briefing on any particular item on the Agenda, the appropriate Director/Senior Officer originating the related report should be contacted.
Notes:	

AGENDA

1 APOLOGIES FOR ABSENCE

2 DECLARATIONS OF INTEREST

3 RECRUITMENT OF INDEPENDENT PERSONS IN ACCORDANCE WITH LOCALISM ACT 2011 *(Pages 1 - 20)*

A report from the Monitoring Officer is attached.

4 LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN COMPLAINTS AND ANNUAL REVIEW LETTER 2016/17 *(Pages 21 - 32)*

A report from the Monitoring Officer is attached.

5 DISQUALIFICATION CRITERIA FOR COUNCILLORS AND MAYORS *(Pages 33 - 50)*

To notify Members of a DCLG consultation.

REPORT FOR DECISION



DECISION OF:	STANDARDS COMMITTEE
DATE:	28 September 2017
SUBJECT:	RECRUITMENT OF INDEPENDENT PERSONS IN ACCORDANCE WITH THE LOCALISM ACT 2011
REPORT FROM:	THE MONITORING OFFICER
CONTACT OFFICER:	JAYNE HAMMOND, ASSISTANT DIRECTOR – LEGAL AND DEMOCRATIC SERVICES
TYPE OF DECISION:	COMMITTEE DECISION
FREEDOM OF INFORMATION/STATUS:	This paper is within the public domain
SUMMARY:	This report asks for Committee to take steps to implement a “pool” of independent persons and recommends the steps needed to appoint such.
OPTIONS & RECOMMENDED OPTION	<ol style="list-style-type: none"> 1. That the Committee agrees that three potential Independent Persons should be selected for recommendation to full Council. 2. That Committee approves the recruitment pack for advertisement and agrees how and where to advertise. 3. That Committee determines the appropriate options for shortlisting candidates and the composition of the interview panel. 4. That Committee determines the period of appointment for the Independent Persons. 5. That authority is delegated to the Monitoring Officer to finalise the recruitment and make the necessary arrangements, in consultation with the Chair of this Committee. 6. That Committee sets the initial expenses for the Independent Persons (with the final expenses/fees/allowances to be approved with the appointment of the Independent Persons by full Council).
IMPLICATIONS:	

Corporate Aims/Policy Framework:	Do the proposals accord with the Policy Framework. Yes but will appointment will need approval of Full Council.
Statement by the S151 Officer: Financial Implications and Risk Considerations:	Costs of recruitment and remuneration will be funded from within existing budgets
Health and Safety Implications	Set out any impact in terms of Health, Safety and Welfare.
Statement by Executive Director of Resources (including Health and Safety Implications)	There are no wider resource implications
Equality/Diversity implications:	There is no impact on equality matters as the report contains options for a discussion.
Considered by Monitoring Officer:	Yes – the legal implications are set out in the report.
Wards Affected:	All
Scrutiny Interest:	Not applicable

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TRACKING/PROCESS

DIRECTOR: Interim Director of Resources and Regulation

Chief Executive/ Strategic Leadership Team	Cabinet Member/Chair	Ward Members	Partners
Scrutiny Committee	Cabinet/Committee	Council	

1.0 BACKGROUND

- 1.1 Section 27 of the Localism Act 2011 imposes a duty on the Council to “promote and maintain high standards of conduct by members and co-opted members” of the Council. The Council is also required to adopt a Code dealing with the conduct that is expected of Members and Co-opted Members of the Council and they are acting in that capacity; and must have in place arrangements under which allegations that a member has failed to comply with the Code of Conduct can be investigated.
- 1.2 The arrangements to deal with Code of Conduct allegations must include the appointment of at least one “Independent Person”, whose views must be sought and taken into account before any decision on an allegation which has been investigated is taken by the Monitoring Officer

- 1.3 When the provisions came into force and in 2012, the Monitoring Officer advertised vacancies for the appointment of one Independent Person and two reserve Independent Persons. A Committee comprising the Chair and three other members of the Standards Committee was set up to short list and interview candidates and to make a recommendation to Council for appointment. The function of setting the initial expenses for an Independent Person and reserve Independent Persons was delegated to the Standards Committee. At that time an Independent Member was appointed to the Standards Committee and an Independent Person was appointed following an Appointments Panel. Given the length of time which has elapsed and the difficulties in operating with one Independent Person, under recommended guidance, it is now considered necessary to review the arrangements and carry out a new recruitment of Independent Persons.

2.0 ROLE OF THE INDEPENDENT PERSON

- 2.1 The Independent Person fulfils a statutory role in relation to Member conduct issues. Independent Persons must be appointed through a process of public advertisement, application and appointment by a positive vote of a majority of all members of the Council. A person is considered not to be independent if:

He is or has been within the last five years, an elected or co-opted Member or an Officer of the Council within its area;

He is or has been within the last five years, an elected or co-opted Member or any Committee or Sub-Committee of the Council within its area;

He is a relative or close friend of a current elected or co-opted Member or Officer of the Council within its area or any elected or co-opted Member of any Committee or Sub-Committee of the Council.

3.0 THE FUNCTIONS OF THE INDEPENDENT PERSON ARE AS FOLLOWS:

- 3.1 An Independent Person must be consulted by the Council before it makes a finding as to whether a Member has failed to comply with the Code of Conduct or decides an action to be taken in respect of that Member.
- 3.2 They may be consulted by the Council in respect of the Standards complaint at any other stage. They also may be consulted by a member or co-opted member of the Council against whom the complaint is being made. This may sometimes cause problems as it would be inappropriate for an Independent Person whom has been consulted by the Member (against whom the complaint has been made) and who might as result be regarded as prejudiced in the matter, to be involved in the determination of that complaint.
- 3.3 The Act gives discretion to appoint one or more Independent Persons and so it has become necessary now to appoint to a "pool" to ensure that the function can be properly discharged. The Council did have two Independent Persons but one resigned the position.
- 3.4 It is therefore suggested that an Interview Panel selects three potential Independent Persons for recommendation to full Council. The Committee is asked to approve the draft recruitment pack set out at Appendix 1 to this report, for advertisement and also to agree where to advertise this. The Committee is also asked to determine the appropriate composition of the Interview Panel.

4.0 OPTIONS FOR ADVERTISEMENT

- 4.1 Committee is asked to agree how and where to advertise for the Independent Persons. A draft advertisement is attached at Appendix 2 and it is suggested that this is advertised in the Local Press and possibly the Manchester Evening News. The advertisement would also be signposted on the Council's website,

5.0 SHORTLISTING OF THE COMPOSITION OF THE INTERVIEW PANEL

- 5.1 The Committee is asked to agree the composition of a panel to shortlist and interview. Previously, shortlisting and interviews were carried out by the Chief Executive, Monitoring Officer and Group Leaders of the Political Parties but the Committee may deem another composition to be appropriate.

6.0 OPTIONS FOR RENUMERATION

- 6.1 The Committee is asked to determine whether and what remuneration to pay any Independent Persons recruited to this role. Other Greater Manchester local authorities pay different remuneration rates, for example one authority pays a flat rate of £500 per annum whereas another authority pays £35.00 per hour plus expenses.

7.0 PERIOD OF APPOINTMENT

- 7.1 The Committee is also asked to express a preference regarding the appropriate period of appointment for the Independent Persons, which would then be recommended to the Council. By way of example most authorities tend to appoint for a fixed term of four years which provides a balanced approach to the term of office.

8. REASONS FOR RECOMMENDATIONS

- 8.1 The Committee is responsible for promoting and maintaining high standards of Member conduct. This report sets out recommendations to recruit a "pool" of Independent Persons to assist in maintaining and promoting high ethical standards. The proposals set out are to reduce the risk of reputational damage to the Council and to individual members, arising from any perception that the Council's arrangements for dealing with complaints about member conduct are not fair or not effective.

List of Background Papers:

None

Contact Details:

Jayne Hammond
Assistant Director - Legal and Democratic Services

**Recruitment Pack
Bury Council Standards Committee
Independent Person**

Independent Person

Recruitment Pack Index

1. Introductory Letter
2. Role Profile
3. Person Specification
4. Application Form
5. Bury Council Members' Code of Conduct
6. [Localism Act 2011 Part 1 Chapter 7](#)

APPOINTMENT OF INDEPENDENT PERSON

Thank you for your interest in becoming an Independent Person on the Bury Council's Standards Committee. I hope that this pack provides you with useful information to assist you in completing the application form.

Would you like to play an important role for the council by contributing towards maintaining high standards of behaviour in public life in Bury Council?

The Localism Act 2011 imposes a duty on the Council to "promote and maintain high standards of conduct by Members and co-opted Members" of the Council. The Council is required to:

- Adopt a code dealing with the conduct that is expected of Members and co-opted Members of the Council when they are acting in that capacity
- Have in place arrangements under which allegations that a Member has failed to comply with the Code of Conduct can be investigated, and arrangements under which decisions on allegations can be made
- Those arrangements must include the appointment of at least one "independent person", whose views must be sought, and taken into account, before any decision on an allegation which has been investigated is taken.

Bury Council is seeking to appoint three Independent Persons who will be available to serve as Chairman of the Standards Committee. An Independent Person will sit as chairman as and when the Standards Committee meets to assist the Council in discharging its duty to promote and maintain high standards of conduct by Elected Members and any Co-opted Members.

Their views will be sought, and taken into account in assessing complaints of alleged Member or co-opted Member misconduct and deciding on a course of action. The Independent Person may also be consulted by a Member about whom an allegation has been made.

It is also part of the role of an Independent Person to be a member of a panel considering any proposal to dismiss the Chief Executive, Chief Finance Officer or the Monitoring Officer (all statutory officers of the Council), and together with the other members of the panel, to make a recommendation on this to full Council.

The role as an Independent Person requires someone who...

- is either a resident of the Borough of Bury or, works in, or, has strong links with the area
- can demonstrate that they can remain independent in their thinking and decision making
- has some experience of chairing meetings or hearings
- has some awareness of the importance of high ethical standards
- is able to make judgements based on evidence or information presented

- has questioning skills
- is a good communicator
- can attend appropriate training sessions and hearings meetings, when required
- can demonstrate full independence from the Council and a keen interest in standards in public life
- wishes to serve the local community and uphold local democracy
- has experience in handling sensitive and confidential information
- has good analytical skills, ability to reason and make balanced judgements

You cannot be an Independent Person if you are...

- currently a Councillor, co-opted Member or employee of the Council or held these positions within the last five years.
- a relative or close friend of anyone who is a Councillor, co-opted Member or employee of the Council
- or have been in the last five years, an active member of any political party
- or have in the last five years, had a public profile in relation to political activities; including having been involved, in a lead or prominent role, in a significant contentious issue involving the Council.

To apply for the position of Independent Person, please complete the application form which can be accessed via the link below and submit to Leigh Webb, The Town Hall, Knowsley Street, Bury, BL9 OSW or email l.m.webb@bury.gov.uk :

Closing Date: Close of business on **XX**
Interviews are scheduled for the week commencing **XX**

Bury Council is committed to promoting equality, challenging discrimination and developing community cohesion. We welcome applications from all sections of the community.

Appointment Process:

If you would like to be considered for the position of Independent Person, please complete the form and return it by noon on **XX**

Your application will then be considered and all short-listed candidates will be notified of the interview date. It is anticipated that interviews will take place the week commencing **XX** and will be held at the Town Hall, Knowsley Street, Bury.

The successful candidates will be recommended to the next appropriate Council meeting for formal appointment.

ROLE PROFILE

Responsible to: The Monitoring Officer and the Council

Liaison with: Members and Co-opted Members and Officers of Bury Council

Competencies and Responsibilities:

1. To assist the Council in promoting high standards of conduct by elected and co-opted members of the Council and in particular to uphold the Code of Conduct adopted by the Council and the principles of public office, namely selflessness, honesty, integrity, objectivity, accountability, openness, leadership, respect for others, duty to uphold the law and stewardship.
2. To be consulted by the Council through the Monitoring Officer in relation to an allegation before it is investigated or reported to the Standards Committee.
3. To be available for consultation by the Monitoring Officer and/or the Standards Committee both before a decision is taken as to whether to investigate a complaint, or to seek local resolution of the same or to consider an appeal against decisions taken.
4. To be available for consultation by any elected or co-opted Member who is subject to a standards complaint.
5. To be an effective chairman, ensuring that the business of the meeting is completed while allowing a fair and balanced debate and any professional advice to be taken into account.
6. To ensure that the meeting is run correctly from a procedural point of view and that decisions made are accurately recorded.
7. As the Chairman, the Independent Person is responsible for keeping order and adjourning meetings where necessary. They should also have a good level of assertiveness. It is also their responsibility to ensure that members of the public and press leave the meeting when a private report is being considered
8. To develop and apply knowledge of the Code of Conduct in relation to any and all matters relating to standards, including the assessment and determination of allegations of member misconduct under the Code of Conduct.
9. To analyse and exercise fair and impartial judgement and decision making on conduct issues.

10. To consult, liaise and maintain a professional working relationship with the Council's Monitoring Officer, her appointed deputies and other officers of the Council.
11. To participate in training events or any forum to develop skills, knowledge and experience and in networks developed for Independent Persons operating outside the Council's area.
12. To be a Member of a Panel considering the dismissal of the Head of Paid Service, Chief Finance Officer or Monitoring Officer of the Council, which would make a recommendation on this to Full Council.

**BURY COUNCIL
PERSON SPECIFICATION
INDEPENDENT PERSON (Localism Act 2011 – Standards)**

	Essential	Desirable	How Measured
Localism Act 2011 criteria	Applicants must comply with the definition of an Independent Person as detailed in the Localism Act 2011, (Section 28(8) and (10))		Application
Experience	Over 18 years of age.		Application and Interview
Education/Training	No specific qualifications required.		

<p>Skills/ Knowledge</p>	<p>Commitment to public service.</p> <p>Ability to act as the chair of an assessment or review sub- committee or a determination hearing</p> <p>Leadership qualities, particularly in respect of exercising sound judgment</p> <p>Ability to critically assess written and oral evidence to reach a balanced and objective decision.</p> <p>Ability to absorb key information from complex reports.</p>	<p>Knowledge of how local government or other public sector/log complex organisations work operates and awareness and sensitivity to the political process.</p> <p>Knowledge and understanding of complaints or judicial/quasi judicial processes.</p>	<p>Application and Interview</p>
	<p>Ability to communicate effectively with a wide range of people, councillors and council officers.</p> <p>Demonstrate excellent listening, problem solving and evaluation skills.</p> <p>Demonstrate tact, diplomacy and impartiality.</p>		

<p>Personal Qualities</p>	<p>Personal Integrity.</p> <p>Commitment to upholding high standards.</p> <p>Independence of mind – ability to form a view on the basis of facts and not to be swayed by others and act objectively.</p> <p>Commitment to confidentiality in appropriate circumstances.</p> <p>Ability and willingness to work with other members of other councils, their committees/panels and officers.</p> <p>Reliable and committed.</p>	<p>Exercise persuasion and influence.</p> <p>Think logically, seeking and receiving advice where appropriate.</p>	<p>Application and interview</p>
<p>Working Arrangements</p>	<p>Need to attend various meetings with fluctuating frequency and sometimes at short notice.</p> <p>Need to be available for and respond to consultation as and when required, and sometimes at short notice</p> <p>Attend training events and</p>	<p>Ability to identify potential conflicts of interest during working role.</p>	<p>Application and interview</p>

You should demonstrate in your application how you meet the above criteria as this will assist the short

APPLICATION FOR THE POSITION OF INDEPENDENT PERSON

Individuals who wish to be considered for appointment as an Independent Person of Bury Council are requested to provide the following information to support their application. All information provided will be treated in confidence and will only be used for the purposes of selecting Independent Persons. Please feel free to use a separate continuation page if you wish to expand upon your answer to any question outlined below.

PERSONAL DETAILS:

Name:

Address:

Postcode:

National Insurance Number:

Contact Details:

Daytime Telephone Number:

Evening Telephone Number:

Mobile Telephone Number:

Email Address(es):

Please provide any additional information you may wish to give in support of your application:

A Reference will be taken up for all applicants who are invited for an interview

Name:

.....

Address:

.....

.....

.....

.....

Telephone No:

.....

Email Address:

.....

I wish to apply to be an Independent Person of Bury Council.

In submitting this application, I declare that: -

1. I am not now, nor have been during the last five years, a Member, co-opted Member or officer of the London Borough of Barnet;
2. I am not closely associated with anyone who is now, nor has been in the last five years, a member,, co-opted Member or officer of the Council;
3. I am not now, nor have been during the last five years, an active member of any political party;
4. I have not now, nor have had in the last five years, a public profile in relation to political activities; including having been involved, in a lead or prominent role, in a significant contentious issue involving the Council.

Signed

Date

Please provide any additional information you may wish to give in support of your application:

APPENDIX 2

The Localism Act 2011 confirmed the Council's continuing duty to promote and maintain high standards of conduct by Members and co-opted Members of the authority.

We are looking for three "Independent Persons" to work with our Standards Committee to help to ensure high standards of conduct in the Council and among elected Councillors within the Borough.

If you think you have the qualities to take on this challenging role, we would like to hear from you. You must be aged 18 or over and understand the Borough and some of the issues facing it. You should be impartial, have a good standing in the community, and support the Council's goals of being accountable, open, principled and committed to equal opportunities.

We are unable to consider anyone who is, or has been within the last five years, a member, co-opted member or officer of Bury Council or who is a relative or close friend of a Member, co-opted Member or officer of the Council.

Preference will be given to applicants with experience and knowledge of the ethical framework and governance regime.

Independent Persons are entitled to a payment of £ . (or Training will be provided and reasonable travel and subsistence expenses will be payable)

To find out more, please contact Leigh Webb, on 0161 253 5399, or email L.M.Webb@bury.gov.uk. You can also write to him at: The Town Hall, Knowsley Street, Bury BL9 0SW.

You will be sent an information pack and application form, which you should complete and return by 2017. .

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REPORT FOR DECISION



DECISION OF:	STANDARDS SCRUTINY COMMITTEE
DATE:	28 September 2017 22 November 2017
SUBJECT:	LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN COMPLAINTS AND OMBUDSMAN'S ANNUAL REVIEW LETTER 2016/17
REPORT FROM:	THE MONITORING OFFICER
CONTACT OFFICER:	JAYNE HAMMOND, ASSISTANT DIRECTOR – LEGAL AND DEMOCRATIC SERVICES
TYPE OF DECISION:	COMMITTEE DECISION
FREEDOM OF INFORMATION/STATUS:	This paper is within the public domain
SUMMARY:	This report sets out findings and recommendations of the Local Government and Social Care Ombudsman
OPTIONS & RECOMMENDED OPTION	(a) That the content of the Ombudsman's Annual Review Letter to the Council be noted (b) That the complaints made to the Local Government Ombudsman referred to the Council during 2016/17 and their outcomes be noted
IMPLICATIONS:	
Corporate Aims/Policy Framework:	Do the proposals accord with the Policy Framework but will need approval of Full Council. Yes
Statement by the S151 Officer: Financial Implications and Risk Considerations:	The cost of investigating complaints is contained within existing budgets. A robust approach to investigation minimises risks to the Council
Health and Safety Implications	Investigations take accounts of appropriate Health & Safety requirements
Statement by Executive Director of Resources	There are no wider resource implications
Equality/Diversity implications:	There is no impact on equality matters as the report contains options for a discussion.
Considered by Monitoring Officer:	Yes – the legal implications are set out in the report and there is a statutory duty for the Monitoring Officer to prepare a formal report

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	to the Council where there has been an act which constitutes maladministration or service failure; and where the Ombudsman has conducted an investigation into the matter.
Wards Affected:	All
Scrutiny Interest:	Not applicable

TRACKING/PROCESS

DIRECTOR: Interim Director of Resources and Regulation

Chief Executive/ Strategic Leadership Team	Cabinet Member/Chair	Ward Members	Partners
11 September 2017			
Scrutiny Committee	Cabinet/Committee	Council	

1.0 INTRODUCTION

1.1. The Council receives an Annual Report summarising all complaints dealt with by the Local Government and Social Care Ombudsman (“LGO”). This Report provides a brief commentary on the Ombudsman’s Annual Review letter, including changes implemented and proposals for future working.

2.0 Ombudsman’s Jurisdiction

2.1 The Ombudsman’s jurisdiction is covered by the Local Government Act 1974 which defines the main statutory functions for the Ombudsman as:

- to investigate complaints against councils and some other authorities
- to investigate complaints about adult social care providers from people who arrange or fund their adult social care (Health Act 2009)

The Ombudsmen's jurisdiction under Part III of the Act covers all local authorities (excluding town and parish councils); police and crime bodies; and school admission appeal panels.

2.2 Complaints and Enquiries Received by the Ombudsman in 2016/17

2.2.1 Last year, the Ombudsman provided, for the first time, statistics on how complaints upheld against the Council were remedied and those not pursued. This year’s letter again includes a breakdown, showing the complaints and enquiries received and decisions made. The letter is attached as Appendix A. The number of complaints and enquiries received for the last two years is shown below:

2016/2017 – 57
2015/2016 – 53

2.2.2 The Ombudsman has, this year, chosen not to include a “compliance rate”, which previously showed compliance with the Ombudsman’s recommendations. From April 2016 a new mechanism was introduced

to ensure recommendations were followed by authorities.

2.2.3 In addition, it is clearly stated by the Ombudsman in the Annual Review Letter 2017 that: *“We know that these numbers will not necessarily match the complaints data that your authority holds. For example, our numbers include people who we signpost back to the Council but who may never contact you.”*

2.2.4 The complaints received by the Ombudsman about the Council in 2016/17 were split across services as follows (note these are LGO designated service categories). These are compared with 2015/16.

Service	Number of Complaints	2016/17	2015/16
Adult Care Services		12	13
Corporate & Other Services		1	1
Education & Children’s Services		9	11
Environmental Services		11	13
Highways & Transport		9	5
Planning & Development		5	3
Housing		2	2
Benefits and Tax		8	5
Other		0	0

As Adult Care Services, Education & Children’s Services and Highways & Transport are the largest service areas in any event, it is expected that these would be the services that the Ombudsman receives most complaints about.

2.3 Ombudsman Complaint Decisions

Decision of Ombudsman in	2016/17	2015/16
Investigated – Upheld	6	5
Investigated – Not Upheld	8	10
Advice given	1	1
Closed after initial enquiries	15	12
Incomplete / Invalid	1	1
Referred back for local resolution	29	25

2.3.1 Appendix B to this report provides details of the six decisions upheld and the required actions by the Council to remedy these. The decision of “Upheld” is applied when the Ombudsman finds there is some fault in the way the Council acted – even if it has agreed to put things right during the course of the Ombudsman investigation; or had already accepted it needed to remedy the situation before the complaint was apparent to the Ombudsman.

2.3.2 The actions required of the Council by the Ombudsman are included within Appendix B. It should be noted that this included financial redress totalling £3,032.00.

3.0 OMBUDSMAN’S ANNUAL REVIEW LETTER

3.1 The Annual Review letter is the successor to the Ombudsman’s Annual Letters. It provides an annual summary of statistics on the complaints made to the Local

Government Ombudsman (LGO) about this Council to the year ending 31 March 2017.

- 3.2 It is intended that the information provided by the Ombudsman, set alongside the data the Council records about local complaints, will assist in assessing the Council's performance.

4.0 MOVING FORWARD WITHIN THE OMBUDSMAN'S ORGANISATION

- 4.1 The LGO corporate strategy is based upon twin pillars of remedying injustice and improving local public services.
- 4.2 The Ombudsman is confident that the continued publication of decisions, focus reports on key themes and the data in the annual review letter is helping the sector to learn from its mistakes and support better services for citizens.
- 4.3 A survey carried out in 2015 demonstrated a significant proportion of councils are sharing the information the Ombudsman provides with elected members and scrutiny / standards committees. This approach is welcomed.

5.0 FUTURE DEVELOPMENTS

- 5.1 Members will be acutely aware of the continuing financial constraints being faced by the Council and the tough decisions around service provision that are being taken. The expectation of customers does not reduce in line with the challenges the Council faces. Indeed customers feel more empowered to hold the Council to account; and therefore it is envisaged that more customers will escalate their dissatisfaction beyond the Council's own complaint procedure, to the Ombudsman. Even as the Council becomes more of an enabling authority and commissioning many services, it remains entirely accountable for those services.
- 5.2 It should also be acknowledged that complaints to the Ombudsman do not always involve the Council or its appeals processes or any wrongdoing; but that they come from people who would have liked something more, or better, or a different outcome. It is unlikely that public expectations of services will diminish in the short term and therefore there is no reason to suppose that complaints will fall significantly. Despite these challenges, employees are making every effort to ensure that capacity to respond to the Ombudsman is maintained.
- 5.3 It remains the case that the Council does not receive significant criticism from the Ombudsman and therefore we should continue to deliver services within our own policy and procedure guidelines, as well as within statutory requirements.
- 5.4 It is important that the Council takes even greater measures to ensure that it is able to evidence that it learns from complaints and uses this learning to improve and maintain the quality of the services it commissions and provides.

List of Background Papers:

None

Contact Details:

Jayne Hammond
Assistant Director - Legal and Democratic Services

Local Government Ombudsman Annual Review 2017

Upheld Complaints against the Council

Six decisions were upheld following investigation by the Local Government Ombudsman and were completed by 31 March 2017 for inclusion in the Annual Review. The investigations are detailed below showing the required actions and whether these have been complied with.

Complaint reference: 15 015 103

The complainant complained that the Council failed to carry out a child protection investigation properly or work with the family sufficiently before starting care proceedings in relation to a child in her care. The complainant says that if the Council had followed proper procedures it would not have taken legal action.

Remedy

The Council to:

- make a payment of £500 to the complainant and £500 to the complainant's family to recognise the unnecessary distress and anxiety they experienced;
- cover their reasonable expenses in connection with the court process if they produce the necessary evidence;
- place a copy of the Ombudsman's final decision on this complaint on B's case records along with any statement the complainant wishes to make;
- Review its procedures to ensure it fully considers taking pre-proceedings action under the Public Law Outline in similar cases in future.

Remedy has been complied with

Complaint reference: 16 004 997

The complainant complains about the way in which the Council acted on a flawed assessment of their family which led to a Child Protection Plan. The complainant complains particularly about the actions of Inspire, an agency commissioned by the Council to support his family. The complainant also complains that the Council has failed to follow up recommendations after the complaint was upheld.

Remedy

In response to the draft decision, the Council agreed to make a payment of £500 in acknowledgement of the distress caused to the family by the actions of the Inspire worker;

The Council says that "*actions following the recommendations of the Independent Panel have been taken by the Team Manager of the Safeguarding Unit; the work carried out has been reported back to the Assistant Director of Social Care*"; it has also separately explained to Mr and Mrs X in a number of responses the actions it has taken. The Council's response to the Ombudsman's draft decision included a consolidated account of its actions.

Remedy has been complied with

Complaint reference: 16 001 103(

The complainant complained the Council refused to refund bailiff fees incurred in enforcing a Penalty Charge Notice (PCN). The court revoked the Order of Recovery and complainant believes the Council should reimburse her all associated fees and charges.

Remedy:

The Council agreed to refund the increased element of the PCN fee of £25, the administration fee of £7 and bailiff fees of £75 (£107).

Remedy has been complied with

Complaint reference: 15 019 126 (associated with complaint reference 15 001 123 below)

The complainant complains about:

- The way the Council responded to requests by her late mother's neighbour to close a public right of way over the access to her mother's home; and
- The Council's failure to safeguard her late mother. She says the Council delayed starting a safeguarding investigation into the alleged harassment of her vulnerable, elderly mother by her neighbour and failed to carry out the eventual investigation properly.

Remedy:

The Council agreed to apologise to the complainant for the faults the LGO found in the way it handled the safeguarding alert and for the fact that its own complaints procedure failed to identify those faults.

Remedy has been complied with

Complaint reference: 15017156

The complainant complains the Council failed to refund bailiff costs and the parking fine following the decision of the Traffic Enforcement Centre (TEC).

In response to enquiries, the Council reissued the Notice to Owner to The complainant. This will give her the opportunity to challenge the original PCN. If it is found the PCN was not correctly issued the Council should make a further refund.

Remedy:

The LGO decision is the complaint will not be pursued further. The return of the bailiff fees has provided a remedy for most of complainant's complaint. When the LGO spoke on the telephone previously, she said this is what she was seeking. In addition the Council will now reissue the Notice to Owner which gives the complainant the right to appeal the PCN if she considers it was wrongly issued.

Remedy has been complied with

Complaint reference: 15014189

The complaint

The complainant complained on behalf of his mother that the Council took too long to act after a breach of a planning condition had been reported that was meant to ensure proper drainage of a new house and its garden.

The complainant was concerned that because the condition was not enforced, a public footpath on land they own was impassable.

Remedy:

The Council has agreed to take the following action to remedy the complaint: the Chief Executive will apologise to the complainant for the time it took to begin enforcement action and how it dealt with the complaint. It will pay the complainant £500 for the time and trouble in bringing her complaint to the Ombudsman.

The Council will consider its practice and procedures in light of this complaint to ensure it deals with planning enforcement complaints promptly in future.

Remedy has been complied with in part with two issues outstanding:

The Council will consider its arrangements for dealing with and responding to Ombudsman enquiries. ***This part of the remedy is being implemented***

The Council will inform the Ombudsman of any changes it makes in light of the complaint within 3 months from the date of the final decision. ***This part of the remedy has yet to be implemented***

Complaint reference: 15 001 123 (associated with complaint reference 15019126 above)

The complaint

The complainant lives in a rural part of the Council's area. He bought his house in March 2012, one of two semi-detached cottages. In front of the cottages runs a watercourse running under a culvert. Over the top of the culvert and passing alongside and behind the cottages runs a right of way.

This also provides a vehicular access for the neighbouring cottage. In August 2012 a section of the culvert collapsed. The complainant had concerns his neighbour (the late 'Mrs X') continued to cross the culvert by car. The complaint about the Council encompasses the following issues:

- that it would not share details of inspections it commissioned to check the condition of the culvert both before and after its partial collapse;
- that it gave Mrs X planning permission to construct a metal bridge over the culvert that the complainant considers undermines its stability;
- that it failed to provide sufficient support to the complainant and his family when they became the targets of harassment and nuisance from Mrs X; in particular and that it failed to prosecute Mrs X for a statutory nuisance;
- that it wrongly labelled the complainant 'unreasonably persistent' in pursuing complaints about these matters; unfairly restricting his access to its services, officers and elected Councillors.

Agreed action

In its response to the Ombudsman's draft findings the Council has indicated it does not agree with the analysis above. However, it has indicated that it is prepared to take action to remedy the complaint and has agreed to the following. Within the next 20 working days it will:

- a) Provide a written apology at a senior level to Mr C and Ms D for the faults found during this investigation;

- b) Provide a financial remedy to the complainant of £500 in recognition of the uncertainty and time and trouble arising from the Council's handling of the planning enforcement matter; £250 for the uncertainty and time and trouble arising from the noise nuisance investigation and £100 for any distress arising from its handling of his communications; making £850 in total;
- c) Liaise with the complainant to commission a suitably qualified independent person to re-examine the cross-section drawing upon which planning permission was given for the bridge to check its accuracy; in the event the independent person finds inaccuracies in the cross-section drawing then the Council should ask that independent person to re-consider if the bridge will impact the integrity of the culvert and the right of way passing over it remains safe to use; The complainant should give his prior consent for that independent person to have whatever access is required to the culvert for that purpose; the cost of that survey will be split 50/50 between the Council and The complainant;
- d) In the event in the event the bridge is found unsafe the Council should consider whether to close the right of way and advise The complainant if it has any scope to take further action in respect of this matter bearing in mind the bridge sits on land in his ownership;
- e) The Council will note in its records that the ownership of the culvert is The complainant and it should seek his permission should it need to enter the culvert and any point in the future.

The Council was not recommended to take any further action in respect of any reports of nuisance or harassment made by the complainant. This is because the investigator understands that at this time there are no ongoing reports and the complainant does not seek the Council's help in these matters. But in the event the complainant approaches the Council for more help with such matters then I would expect the Council to provide him with clear information about its potential ability to intervene in disputes involving owner occupiers. It should also consider if there is any help it can provide in terms of gathering evidence useful to the determination of what action it could take.

The Council was also not recommended to take any further action in respect of any restrictions in communications with the complainant. This was in the light of the facts set out at paragraph 71 and its comments at paragraph 75. These indicated that no further restrictions were in place on the complainant communications. In comments received on the draft report the Council suggested this might not be the case and that it only intended to communicate with the complainant in future by writing. I do not endorse this approach as I have no evidence to think it justified (as far as I am aware there have been no direct communications between the complainant and the Council or over 18 months now). Should the Council consider that at the present time the complainant's communications should remain restricted then it should write to him explaining the rationale for that decision. It was suggested it explain how long that restriction will apply; in respect of what matters and at what point its decision will be reviewed. It should also explain what right of appeal the complainant has to that decision or else signpost him to this organisation to consider a fresh complaint about any such restrictions.

Remedy has been complied with

20 July 2017

By email

Pat Jones-Greenhalgh
Interim Chief Executive
Bury Metropolitan Borough Council

Dear Pat Jones-Greenhalgh

Annual Review letter 2017

I write to you with our annual summary of statistics on the complaints made to the Local Government and Social Care Ombudsman (LGO) about your authority for the year ended 31 March 2017. The enclosed tables present the number of complaints and enquiries received about your authority and the decisions we made during the period. I hope this information will prove helpful in assessing your authority's performance in handling complaints.

The reporting year saw the retirement of Dr Jane Martin after completing her seven year tenure as Local Government Ombudsman. I was delighted to be appointed to the role of Ombudsman in January and look forward to working with you and colleagues across the local government sector in my new role.

You may notice the inclusion of the '*Social Care Ombudsman*' in our name and logo. You will be aware that since 2010 we have operated with jurisdiction over all registered adult social care providers, able to investigate complaints about care funded and arranged privately. The change is in response to frequent feedback from care providers who tell us that our current name is a real barrier to recognition within the social care sector. We hope this change will help to give this part of our jurisdiction the profile it deserves.

Complaint statistics

Last year, we provided for the first time statistics on how the complaints we upheld against your authority were remedied. This year's letter, again, includes a breakdown of upheld complaints to show how they were remedied. This includes the number of cases where our recommendations remedied the fault and the number of cases where we decided your authority had offered a satisfactory remedy during the local complaints process. In these latter cases we provide reassurance that your authority had satisfactorily attempted to resolve the complaint before the person came to us.

We have chosen not to include a 'compliance rate' this year; this indicated a council's compliance with our recommendations to remedy a fault. From April 2016, we established a new mechanism for ensuring the recommendations we make to councils are implemented, where they are agreed to. This has meant the recommendations we make are more specific, and will often include a time-frame for completion. We will then follow up with a council and seek evidence that recommendations have been implemented. As a result of this new process, we plan to report a more sophisticated suite of information about compliance and service improvement in the future.

This is likely to be just one of several changes we will make to our annual letters and the way we present our data to you in the future. We surveyed councils earlier in the year to find out, amongst other things, how they use the data in annual letters and what data is the most useful; thank you to those officers who responded. The feedback will inform new work to

provide you, your officers and elected members, and members of the public, with more meaningful data that allows for more effective scrutiny and easier comparison with other councils. We will keep in touch with you as this work progresses.

I want to emphasise that the statistics in this letter comprise the data we hold, and may not necessarily align with the data your authority holds. For example, our numbers include enquiries from people we signpost back to the authority, but who may never contact you.

In line with usual practice, we are publishing our annual data for all authorities on our website. The aim of this is to be transparent and provide information that aids the scrutiny of local services.

During the year your Council raised a concern with my office about a planning complaint we were investigating. Amongst other things, the Council challenged the decision to investigate the complaint because it had not been through its local complaints process. Although we usually encourage the public to try to resolve problems directly with a council in the first instance, I have discretion to accept a complaint at any point in the process.

I hope this clarifies this issue and I would like to thank you for your Council's cooperation with our investigations over the course of the last year.

The statutory duty to report Ombudsman findings and recommendations

As you will no doubt be aware, there is duty under section 5(2) of the Local Government and Housing Act 1989 for your Monitoring Officer to prepare a formal report to the council where it appears that the authority, or any part of it, has acted or is likely to act in such a manner as to constitute maladministration or service failure, and where the LGO has conducted an investigation in relation to the matter.

This requirement applies to all Ombudsman complaint decisions, not just those that result in a public report. It is therefore a significant statutory duty that is triggered in most authorities every year following findings of fault by my office. I have received several enquiries from authorities to ask how I expect this duty to be discharged. I thought it would therefore be useful for me to take this opportunity to comment on this responsibility.

I am conscious that authorities have adopted different approaches to respond proportionately to the issues raised in different Ombudsman investigations in a way that best reflects their own local circumstances. I am comfortable with, and supportive of, a flexible approach to how this duty is discharged. I do not seek to impose a proscriptive approach, as long as the Parliamentary intent is fulfilled in some meaningful way and the authority's performance in relation to Ombudsman investigations is properly communicated to elected members.

As a general guide I would suggest:

- Where my office has made findings of maladministration/fault in regard to routine mistakes and service failures, and the authority has agreed to remedy the complaint by implementing the recommendations made following an investigation, I feel that the duty is satisfactorily discharged if the Monitoring Officer makes a periodic report to the council summarising the findings on all upheld complaints over a specific period. In a small authority this may be adequately addressed through an annual report on complaints to members, for example.
- Where an investigation has wider implications for council policy or exposes a more significant finding of maladministration, perhaps because of the scale of the fault or

injustice, or the number of people affected, I would expect the Monitoring Officer to consider whether the implications of that investigation should be individually reported to members.

- In the unlikely event that an authority is minded not to comply with my recommendations following a finding of maladministration, I would always expect the Monitoring Officer to report this to members under section five of the Act. This is an exceptional and unusual course of action for any authority to take and should be considered at the highest tier of the authority.

The duties set out above in relation to the Local Government and Housing Act 1989 are in addition to, not instead of, the pre-existing duties placed on all authorities in relation to Ombudsman reports under The Local Government Act 1974. Under those provisions, whenever my office issues a formal, public report to your authority you are obliged to lay that report before the council for consideration and respond within three months setting out the action that you have taken, or propose to take, in response to the report.

I know that most local authorities are familiar with these arrangements, but I happy to discuss this further with you or your Monitoring Officer if there is any doubt about how to discharge these duties in future.

Manual for Councils

We greatly value our relationships with council Complaints Officers, our single contact points at each authority. To support them in their roles, we have published a Manual for Councils, setting out in detail what we do and how we investigate the complaints we receive. When we surveyed Complaints Officers, we were pleased to hear that 73% reported they have found the manual useful.

The manual is a practical resource and reference point for all council staff, not just those working directly with us, and I encourage you to share it widely within your organisation. The manual can be found on our website www.lgo.org.uk/link-officers

Complaint handling training

Our training programme is one of the ways we use the outcomes of complaints to promote wider service improvements and learning. We delivered an ambitious programme of 75 courses during the year, training over 800 council staff and more 400 care provider staff. Post-course surveys showed a 92% increase in delegates' confidence in dealing with complaints. To find out more visit www.lgo.org.uk/training

Yours sincerely



Michael King
Local Government and Social Care Ombudsman for England
Chair, Commission for Local Administration in England

Local Authority Report: Bury Metropolitan Borough Council
For the Period Ending: 31/03/2017

For further information on how to interpret our statistics, please visit our website:
<http://www.lgo.org.uk/information-centre/reports/annual-review-reports/interpreting-local-authority-statistics>

Complaints and enquiries received

	Adult Care Services	Benefits and Tax	Corporate and Other Services	Education and Children's Services	Environment Services	Highways and Transport	Housing	Planning and Development	Other	Total
12	8	1	9	11	9	2	5	0	57	

Decisions made

Detailed Investigations				Total
Incomplete or Invalid	Advice Given	Referred back for Local Resolution	Closed After Initial Enquiries	Uphold Rate
1	1	29	15	43%
Not Upheld				60
Upheld				6

Notes

Our uphold rate is calculated in relation to the total number of detailed investigations. The number of remedied complaints may not equal the number of upheld complaints. This is because, while we may uphold a complaint because we find fault, we may not always find grounds to say that fault caused injustice that ought to be remedied.

Complaints Remedied

by LGO	Satisfactorily by Authority before LGO Involvement
6	0



Department for
Communities and
Local Government

Disqualification criteria for Councillors and Mayors

Consultation on updating disqualification criteria for local authority members



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

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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)
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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](#).

