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Gedling Borough Council

Civic Centre,
Arnot Hill Park,
Arnold,
Nottinghamshire,
NG5 6LU

Agenda

Standards Committee

Date: **Thursday 8 February 2018**

Time: **6.00 pm**

Place: **Committee Room**

For any further information please contact:

Helen Barrington

Director of Organisational Development and Democratic Services

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Standards Committee

Membership

Chair	Councillor Emily Bailey Jay
Vice-Chair	Councillor Michael Payne
	Councillor Alan Bexon
	Councillor Andrew Ellwood
	Councillor Colin Powell
	John Bailey
	Rosalie Hawks
	Patricia Woodfield

AGENDA

Page

1 **Apologies for Absence and Substitutions.**

2 **To approve, as a correct record, the minutes of the meeting held on 29 June 2017.** 5 - 6

3 **Declaration of Interests.**

4 **Review of legislation and local government ethical standards** 7 - 60

Report of the Director of Organisational Development and Democratic Services.

5 **Code of Conduct Complaints** 61 - 66

Report of the Director of Organisational Development and Democratic Services.

6 **Any other item which the Chair considers urgent.**

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MINUTES
STANDARDS COMMITTEE

Thursday 29 June 2017

Councillor Emily Bailey Jay (Chair)

Councillor Michael Payne
Councillor Alan Bexon
Councillor Andrew Ellwood

Apologies for absence: Councillor Colin Powell

Officers in Attendance: H Barrington

35 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS.

Apologies for absence were received from Councillor Powell.

36 TO APPROVE, AS A CORRECT RECORD, THE MINUTES OF THE MEETING HELD ON 23 FEBRUARY 2017.

RESOLVED:

That the minutes of the above meeting, having been circulated, be approved as a correct record.

37 DECLARATION OF INTERESTS.

None.

38 RECRUITMENT OF INDEPENDENT PERSON AND RESERVE INDEPENDENT PERSON

Consideration was given to a report of the Director of Organisational Development and Democratic Services, which had been circulated prior to the meeting, seeking the Committees recommendation to Council for appointments to the roles of Independent Person and Reserve Independent Person.

RESOLVED:

1. To recommend to Council that John Baggaley should be appointed as Independent Person under the Localism Act 2012 for 5 years;

2. To recommend to Council that Susan Dewey OBE should be appointed as reserve Independent Person under the Localism Act 2012 for 5 years with a review after 1 year; and

3. To delegate authority to conduct the said review to the interview panel.

39 GIFTS AND HOSPITALITY 2016/17

Consideration was given to a report of the Director of Organisational Development and Democratic Services, which had been circulated prior to the meeting, informing members of the Standards Committee of gifts and hospitality received between 1 April 2016 and 31 March 2017.

RESOLVED:

To note the report.

40 CODE OF CONDUCT COMPLAINTS

Consideration was given to a report of the Director of Organisational Development and Democratic Services, which had been circulated prior to the meeting, informing members of the Standards Committee of complaints received between 1 February 2017 and 20 June 2017.

RESOLVED:

To note the report.

41 ANY OTHER ITEM WHICH THE CHAIR CONSIDERS URGENT.

None.

Signed by Chair:
Date:

Report to Standards Committee

Subject: Review of legislation and local government ethical standards

Date: 8 February 2018

Author: Director of Organisational Development and Democratic Services

1. Purpose of the Report

To inform Standards Committee of:

- government proposals to make legislative changes to extend the criteria for disqualification of Councillors; and
- the introduction of a new ministerial code

To invite Standards Committee to consider if it wishes to respond to the consultation exercise being conducted by the Committee on Standards in Public Life.

2. Background

Legislative changes to extend the criteria for disqualification of Councillors

2.1 Standards Committee will be aware that the current disqualification criteria are contained in section 80 of the Local Government Act 1972 and are summarised below.

A person is disqualified from standing as a candidate or being a member of a local authority if they:

a) are employed by the authority or a company under the control of the authority, or under the direction of various local authority committees and boards;

b) are subject to certain types of bankruptcy orders;

c) have, within 5 years before being elected, or at any time since, been convicted of any offence and received a sentence of imprisonment (suspended or not) for a period of not less than three months without the option of a fine;

d) are disqualified under Part III of the Representation of the People Act 1983 [election offences]; or

e) are a teacher in a school maintained by the local authority.

2.2 The government considers that there should be consequences where Councillors 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 that individual. Therefore the government has carried out a consultation exercise about proposals to add the following additional disqualification criteria in relation to sexual offences and anti-social behaviour. The consultation closed on 8 December 2017.

Sexual Offences

The government's proposals are set out in Appendix 1. The proposals seek to extend disqualification to cover offenders who are the subject of sex offender notification requirements but not extending it to persons who have not been either convicted or have not received a caution (which involves an admission of guilt) in relation to a sexual offence. The government does not propose to extend disqualification to persons who are subject to Sexual Risk Orders; the rationale for this is based on the fact that, in these circumstances there has been no conviction or admission of guilt by the person and, hence, disqualification could be argued to breach their human rights.

Anti-Social Behaviour

The government's proposals are also set out in Appendix 1. The proposals seek to extend disqualification to individuals subject to an anti-social behaviour issued by the courts in respect of civil injunctions and criminal behaviour orders following convictions. A similar rationale has been applied to narrow the disqualification to where a court process and findings have been applied to anti-social behaviour.

2.3 The intention of government is that the new provisions will not be applied retrospectively. This is in line with normal legislative practice, and will mean that existing councillors will not become disqualified under one of the new criteria during their current term of office but relevant sex offender notifications, injunctions and orders which were imposed prior to the new provisions coming into force, but which remain in effect, will act to disqualify the councillor from standing for re-election after the changes come into force.

2.4 The LGA has responded to the consultation on behalf of all local authorities and a copy of the submission is set out in Appendix 2 for information.

New ministerial Code

2.5 The Cabinet Office has issued a new Ministerial Code setting out the standards of conduct expected of ministers and how they should discharge their duties; a copy of which is attached at Appendix 3. The Standards Committee is asked to consider whether it wishes to compare these provisions with the Council's own Code of Conduct.

Review of local government ethical standards

2.6 The Committee on Standards in Public Life has launched a consultation exercise to inform its review of local government ethical standards. This consultation closes at 5pm on 18 May 2018 The terms of reference for the review are to:

a) Examine the structures, processes and practice in local government in England for:
    a. Maintaining codes of conduct for local councillors;
    b. Investigating alleged breaches fairly and with due process;
    c. Enforcing codes and imposing sanctions for misconduct;
    d. Declaring interests and managing conflicts of interest; and
    e. Whistleblowing

b) Assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government;

c) Make any recommendations for how they can be improved; and

d) Note any evidence of intimidation of councillors, and make recommendations for any measures that could be put in place to prevent and address such intimidation.

A copy of the consultation paper is attached at Appendix 4.

3. Proposal

3.1 It is proposed that the Committee:

- notes the government's proposals to extend the criteria for disqualification of Councillors;
- considers the Ministerial Code and determines whether any specific provisions ought to be considered for inclusion in the Council's Code of Conduct;
- gives views on an appropriate response to the consultation being carried out by the Committee on Standards in public life; and

- delegates authority to the Monitoring Officer in consultation with the Chair of the Committee to prepare the final consultation response to the Committee on Standards in Public Life.

3.2 In view of the fact that consultation exercises are conducted by government and other organisations at times which may not enable consideration by Committee at scheduled meetings, it is proposed that a general delegation is given to the Monitoring Officer in consultation with the Chair of the Committee to respond to any relevant consultations.

4. Resource Implications

None.

5. Recommendations

It is recommended that the Committee:

- notes the government's proposals to extend the criteria for disqualification of Councillors;
- considers the Ministerial Code and determines whether any specific provisions ought to be considered for inclusion in the Council's Code of Conduct;
- provides views on an appropriate response to the consultation being carried out by the Committee on Standards in public life;
- delegates authority to the monitoring officer in consultation with the Chair of the Committees to prepare the final consultation response to the Committee on standards in public life; and
- delegates authority to the Monitoring Officer in consultation with the Chair of the Committee to respond to consultation documents within the remit of the Standards Committee.

6. Appendices

Appendix 1 – Summary of the Government's proposals.

Appendix 2 – LGA response to consultation.

Appendix 3 – Ministerial Code January 2018.

Appendix 4 - Committee on Standards in Public Life consultation.

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?

LGA submission to the consultation on disqualification criteria for councillors and mayors

November 2017

Submission

About the Local Government Association

The Local Government Association (LGA) is the national voice of local government. We work with councils to support, promote and improve local government. We are a politically-led, cross-party organisation, which works on behalf of councils to ensure local government has a strong, credible voice with national government.

We aim to influence and set the political agenda on issues that matter most to councils so they are able to deliver local solutions to national problems. The LGA covers every part of England and Wales, supporting local government as the most efficient and accountable part of the public sector.

Key messages

The LGA supports the objective of ensuring the highest standards of integrity and conduct among local councillors and mayors. As the representative organisation for local government, the LGA works with member organisations and councillors to promote conduct and leadership that is in line with the seven principles of standards in public life.

We are therefore supportive of the intention to take measures that help prevent public confidence in elected officials from being undermined. However, any new measures should apply equally to all elected representatives as well as to Members of the House of Lords.

It is not clear why the proposals in the consultation apply only to local councillors as the Government provides no rationale for this. If Government believes that it is in principle unacceptable for individuals on the sex offenders register, or who are subject to an anti-social behaviour order issued by a court, to hold elected office, then this should apply equally to Police and Crime Commissioners, Parliamentary candidates and Members of both Houses of Parliament, as well as to councillors. Conversely, if Government believes that there are particular reasons or risks pertaining to local councillors which do not apply more widely, it should say what these are. Uneven standards are unjustifiable and risk damaging the reputation of Parliament

Councillors are already subject to more stringent disqualification criteria than Members of Parliament. Individuals who have received a prison sentence of three months or more in the five year period before the election are disbarred from standing as a councillor, or must stand down if convicted after their election. The equivalent provision barring an individual from standing for or sitting in Parliament applies if they are subject to a current conviction to be imprisoned for more than a year.

Disqualification standards should be the same for **all** elected officials, and – despite our support for some of the measures in this consultation – we do not

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support the creation of further discrepancies in the regimes applying to local and national politicians.

In terms of the proposals themselves, freedom of expression and the right to take part in our elections are a fundamental part of the democratic values that our country holds dear. The need to maintain public confidence in elected officials must be balanced with the need to avoid measures which are unjustifiably restrictive or could be open to abuse.

While we are supportive of some of the measures in the consultation (specifically the proposal to disbar individuals on the sex offenders register) we are concerned at the lack of information put forward to support the wider proposals. Removing the rights of individuals to participate in our democratic process requires more justification than Government has provided in its consultation document.

In particular, we do not believe that Government has provided sufficient justification for disqualification of individuals who are subject to an anti-social behaviour sanction that has been issued by a court.

There are many different types of anti-social behaviour. The broad categorisation and approach proposed here risks including individuals or councillors who may have been involved in what many people would see as legitimate protests, rather than the type of anti-social behaviour that blights lives, which is the limited basis Government has cited. We are extremely concerned that this measure could be open to abuse and therefore do not support it.

Further detail

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 <u>not</u> 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?

The LGA recognises that the inability to require individuals who have been placed on the sex offenders register to stand down from their local elected office has undermined public confidence in local government. The conduct of a person whose behaviour has caused them to be placed on the register clearly falls unacceptably short of the standards required of our elected representatives; additionally an individual's continued presence in a public facing role could present a safeguarding risk.

We therefore support the proposal that an individual who is subject to the notification requirements set out in the Sexual Offences Act 2003 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.

However, this disqualification criteria should also apply to Police and Crime Commissioners, Parliamentary candidates and Members of both Houses of Parliament.

In regard to individuals who are subject to a sexual risk order, we disagree that

people subject to an order should not be disqualified. Individuals who are subject to a sexual risk order should also be disqualified from seeking or holding office, on the basis that they could also pose a safeguarding risk and undermine public confidence. However, again we reiterate that this disqualification should be applied to Police and Crime Commissioners, Parliamentary candidates and Members of both Houses of Parliament.

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

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

The LGA does not support this proposal. We do not think that there should be blanket disqualification criteria applying to any individual subject to a civil injunction or criminal behaviour order.

We believe that there is a clear risk that individuals who have been involved in persistent but non-violent protest (particularly in the environmental space) could be subject to these measures, thereby preventing them from seeking or holding elected office despite the fact they may have been protesting a cause that has significant local support. This would in itself be a serious infringement of local democratic processes, but we are further concerned that the criteria could be abused by political opponents seeking to have these sanctions imposed where is disagreement on local issues.

It is possible that that there are some specific categories of anti-social behaviour – such as hate crime – for which there may be justification for excluding individuals found guilty of them from the democratic process. But again, we believe that Government has failed to provide a strong enough rationale or sufficiently describe what the issue is that it is trying to address, with the result that the proposal is far too wide ranging and not one that the LGA can support.

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?

It is not clear to us why the proposals in this consultation should have an impact on local authorities discharging their public sector equality duties; or that it should be a consideration if they did. Either the proposals are justifiable in themselves, or they aren't.

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

As set out above, we are unsure of the rationale for applying this criteria only to individuals 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.

Any new disqualification criteria arising from this consultation should be applied equally to Police and Crime Commissioners, Parliamentary candidates and

Members of both Houses of Parliament. The already unequal level playing field applying at local and national level should not be distorted any further.

We would also welcome clarity on how any changes to disqualification criteria would be enforced, and specifically how individuals who are on the sex offenders register or subject to a sexual risk order would be identified, recognising that there is no power for councils to impose a DBS check on individuals standing for election.

MINISTERIAL CODE

CABINET OFFICE
January 2018

MINISTERIAL CODE

Foreword by

The Prime Minister

The mission of this government is to build a country that works for everyone, not just the privileged few. That means putting ourselves firmly at the service of ordinary working people across the nation who are looking to us to step up and take the big decisions necessary to guide our country through this period of great national change.

That is what politics is all about: taking the big decisions, serving the people, getting on with the job. It is why I have spoken of the need to recognise the good that Government can do and of what an enormous privilege it is to have the chance to serve the public in this way.

This Code sets out the standards of behaviour expected from all those who serve in Government. The values it promotes should underpin our conduct as we tackle the challenges of our times and seek to build that fairer Britain, a country of genuine opportunity for all where everyone plays by the same rules. Parliament and Whitehall are special places in our democracy, but they are also places of work too, and exactly the same standards and norms should govern them as govern any other workplace. We need to establish a new culture of respect at the centre of our public life: one in which everyone can feel confident that they are working in a safe and secure environment.

In abiding by this Code, we will show that Government can be a force for good and that people can trust us to get on with the job and build a country fit for the future.

THERESA MAY

MINISTERIAL CODE
INDEX

MINISTERIAL CODE

1 MINISTERS OF THE CROWN

General principle

1.1 Ministers of the Crown are expected to maintain high standards of behaviour and to behave in a way that upholds the highest standards of propriety.

1.2 Ministers should be professional in all their dealings and treat all those with whom they come into contact with consideration and respect. Working relationships, including with civil servants, ministerial and parliamentary colleagues and parliamentary staff should be proper and appropriate. Harassing, bullying or other inappropriate or discriminating behaviour wherever it takes place is not consistent with the Ministerial Code and will not be tolerated.

1.3 The *Ministerial Code* should be read against the background of the overarching duty on Ministers to comply with the law and to protect the integrity of public life. They are expected to observe the *Seven Principles of Public Life* set out at Annex A, and the following principles of Ministerial conduct:

a. The principle of collective responsibility applies to all Government Ministers;

b. Ministers have a duty to Parliament to account, and be held to account, for the policies, decisions and actions of their departments and agencies;

c. It is of paramount importance that Ministers give accurate and truthful information to Parliament, correcting any inadvertent error at the earliest opportunity. Ministers who knowingly mislead Parliament will be expected to offer their resignation to the Prime Minister;

d. Ministers should be as open as possible with Parliament and the public, refusing to provide information only when disclosure would not be in the public interest, which should be decided in accordance with the relevant statutes and the *Freedom of Information Act 2000*;

e. Ministers should similarly require civil servants who give evidence before Parliamentary Committees on

their behalf and under their direction to be as helpful as possible in providing accurate, truthful and full information in accordance with the duties and responsibilities of civil servants as set out in the *Civil Service Code*;

f. Ministers must ensure that no conflict arises, or appears to arise, between their public duties and their private interests;

g. Ministers should not accept any gift or hospitality which might, or might reasonably appear to, compromise their judgement or place them under an improper obligation;

h. Ministers in the House of Commons must keep separate their roles as Minister and constituency Member;

i. Ministers must not use government resources for Party political purposes; and

j. Ministers must uphold the political impartiality of the Civil Service and not ask civil servants to act in any way which would conflict with the *Civil Service Code* as set out in the *Constitutional Reform and Governance Act 2010*.

1.4 It is not the role of the Cabinet Secretary or other officials to enforce the Code. If there is an allegation about a breach of the Code, and the Prime Minister, having consulted the Cabinet Secretary feels that it warrants further investigation, she will refer the matter to the independent adviser on Ministers' interests.

1.5 The Code provides guidance to Ministers on how they should act and arrange their affairs in order to uphold these standards. It lists the principles which may apply in particular situations. It applies to all members of the Government and covers Parliamentary Private Secretaries in paragraphs 3.7 – 3.12.

1.6 Ministers are personally responsible for deciding how to act and conduct themselves in the light of the Code and for justifying their actions and conduct to Parliament and the public. However, Ministers only remain in office for so long as they retain the confidence of the Prime Minister. She is the ultimate judge of the standards of behaviour expected of a Minister and

the appropriate consequences of a breach of those standards.

1.7 Ministers must also comply at all times with the requirements which Parliament itself has laid down in relation to the accountability and responsibility of Ministers. For Ministers in the Commons, these are set by the Resolution carried on 19 March 1997 (*Official Report* columns 1046-47), the terms of which are repeated at b. to e. above. For Ministers in the Lords, the Resolution can be found in the *Official Report* of 20 March 1997 column 1057. Ministers must also comply with the Codes of Conduct for their respective Houses and also any requirements placed on them by the Independent Parliamentary Standards Authority.

2 MINISTERS AND THE GOVERNMENT

General principle

2.1 The principle of collective responsibility requires that Ministers should be able to express their views frankly in the expectation that they can argue freely in private while maintaining a united front when decisions have been reached. This in turn requires that the privacy of opinions expressed in Cabinet and Ministerial Committees, including in correspondence, should be maintained.

Cabinet and Ministerial Committee business

2.2 The business of the Cabinet and Ministerial Committees consists in the main of:

a. questions which significantly engage the collective responsibility of the Government because they raise major issues of policy or because they are of critical importance to the public;

b. questions on which there is an unresolved argument between departments.

Collective responsibility

2.3 The internal process through which a decision has been made, or the level of Committee by which it was taken should not be disclosed. Decisions reached by the Cabinet or Ministerial Committees are binding on all members of the Government. They are, however, normally announced and explained as the decision of the Minister concerned. On occasion, it may be desirable to emphasise the importance of a decision by stating specifically that it is the decision of Her Majesty's Government. This, however, is the exception rather than the rule. Ministers also have an obligation to ensure decisions agreed in Cabinet and Cabinet Committees (and in write-rounds) are implemented. Ministers should take special care in discussing issues which are the responsibility of other Ministers, consulting ministerial colleagues as appropriate.

2.4 Matters wholly within the responsibility of a single Minister and which do not significantly engage collective responsibility need not be brought to the Cabinet or to a Ministerial Committee unless the Minister wishes to inform his colleagues or to have their advice. No definitive criteria can be given for issues which engage collective responsibility. The Cabinet Secretariats can advise where departments are unsure, however, the final decision rests with the Prime Minister. When there is a difference between departments, it should not be referred to the Cabinet until other means of resolving it have been exhausted. It is the responsibility of the initiating department to ensure that proposals have been discussed with

other interested departments and the outcome of these discussions should be reflected in the memorandum or letter submitted to Cabinet or a Cabinet Committee.

Attendance at Cabinet and Cabinet Committees

2.5 Cabinet and Cabinet Committee meetings take precedence over all other Ministerial business apart from the Privy Council, although it is understood that Ministers may occasionally have to be absent for reasons of Parliamentary business and international commitments. A Minister may delegate attendance at Cabinet Committees to a junior Ministerial colleague (although there may be exceptions for particular meetings at the discretion of the Chair), but officials cannot attend Cabinet Committee meetings in place of a Minister. There are restrictions on officials attending Cabinet Committees. If exceptionally officials or advisers need to attend, they should inform the secretariat. The Ministerial chair of the Committee must agree attendance of officials and advisers in advance.

Publication of policy statements and consultation papers

2.6 Before publishing a policy statement (white paper) or a consultation paper (green paper), departments should consider whether it raises issues which require full collective ministerial consideration through the appropriate Cabinet Committee. The expectation is that most such papers will need collective agreement prior to publication. Any Command Paper containing a major statement of Government policy should be circulated to the Cabinet before publication. This rule applies to Papers containing major statements even when no issue requiring collective consideration is required.

Cabinet documents

2.7 Ministers relinquishing office should hand back to their department any Cabinet documents and/or other departmental papers in their possession.

2.8 On a change of Government, the Cabinet Secretary on behalf of the outgoing Prime Minister, issues special instructions about the disposal of Cabinet papers of the outgoing Administration.

Access by former Ministers to official papers

2.9 By convention and at the Government's discretion, former Ministers are allowed reasonable access to the papers of the period when they were in office. With the exception of former Prime Ministers, access is limited to former Ministers personally. Subject to compliance with the 'Radcliffe' Rules (paragraph 8.10), former Ministers may have access in the Cabinet Office to copies of Cabinet or Cabinet Committee papers which were issued to them when in office, and access in the relevant department to other official papers which they are known to have handled at the time.

The Law Officers

2.10 The Law Officers must be consulted in good time before the Government is committed to critical decisions involving legal considerations.

2.11 By convention, written opinions of the Law Officers, unlike other ministerial papers, are generally made available to succeeding Administrations.

2.12 When advice from the Law Officers is included in correspondence between Ministers, or in papers for the Cabinet or Ministerial Committees, the conclusions may if necessary be summarised but, if this is done, the complete text of the advice should be attached.

2.13 The fact that the Law Officers have advised or have not advised and the content of their advice must not be disclosed outside Government without their authority.

3 MINISTERS AND APPOINTMENTS

General principle

3.1 Civil service appointments must be made in accordance with the requirements of the *Constitutional Reform and Governance Act 2010.* Ministerial involvement in such appointments is set out in the Civil Service Commission's *Recruitment Principles*. Public appointments should be made in accordance with the requirements of the law and, where appropriate, the Governance Code issued by the Cabinet Office. Ministers have a duty to ensure that influence over civil service and public appointments is not abused for partisan purposes.

Special advisers

3.2 With the exception of the Prime Minister, Cabinet Ministers may each appoint up to two special advisers. The Prime Minister may also authorise the appointment of special advisers for Ministers who regularly attend Cabinet. All appointments, including exceptions to this rule, require the prior written approval of the Prime Minister, and no commitments to make such appointments should be entered into in the absence of such approval. All special advisers will be appointed under terms and conditions set out in the *Model Contract for Special Advisers* and the *Code of Conduct for Special Advisers*.

3.3 All special advisers must uphold their responsibility to the Government as a whole, not just to their appointing Minister. The responsibility for the management and conduct of special advisers, including discipline, rests with the Minister who made the appointment. Individual Ministers will be accountable to the Prime Minister, Parliament and the public for their actions and decisions in respect of their special advisers. It is, of course, also open to the Prime Minister to terminate employment by withdrawing her consent to an individual appointment.

3.4 The Government will publish an annual statement to Parliament setting out the numbers, names and paybands of special advisers, the appointing Minister and the overall paybill.

Departmental Boards

3.5 Secretaries of State should chair their departmental board. Boards should comprise other Ministers, senior officials, a Lead Non-Executive and non-executive board members, (largely drawn from the commercial private sector and appointed by the Secretary of State in accordance with Cabinet Office guidelines). The remit of the board should be performance and delivery, and to provide the strategic leadership of the department.

Parliamentary Private Secretaries

3.6 Cabinet Ministers and Ministers of State may appoint Parliamentary Private Secretaries. All appointments require the prior written approval of the Prime Minister. The Chief Whip should also be consulted and no commitments to make such appointments should be entered into until such approval is received.

3.7 Parliamentary Private Secretaries are not members of the Government. However, they must ensure that no conflict arises, or appears to arise, between their role as a Parliamentary Private Secretary, and their private interests.

3.8 Official information given to them should generally be limited to what is necessary for the discharge of their Parliamentary and political duties. This need not preclude them from being brought into departmental discussions where appropriate, but any such access should be approved by the relevant appointing Minister. They should not have access to information classified at secret or above. Any proposal to visit a secure government establishment requires the approval of the Head of the establishment.

3.9 Parliamentary Private Secretaries are expected to support the Government in divisions in the House. No Parliamentary Private Secretary who votes against the Government can retain his or her position.

3.10 Parliamentary Private Secretaries should not make statements in the House nor put Questions on matters affecting the department with which they are connected. They are not precluded from serving on Select Committees, but they should withdraw from any involvement with inquiries into their appointing Minister's department, and they should avoid associating themselves with recommendations critical of or embarrassing to the Government. They should also exercise discretion in any statements outside the House.

3.11 Where it is proposed to take a Parliamentary Private Secretary or other Parliamentarian on an official visit overseas, the Prime Minister's approval is required. Official overseas travel by a Parliamentary Private Secretary, or other Parliamentarians, should be exceptional.

3.12 Parliamentary Private Secretaries, particularly those in departments with planning responsibilities, should take special care when making representations to Ministers about planning issues. In particular, they should not discuss planning cases with interested parties or imply that they have any influence over planning decisions. In representing their constituency

interests they should abide by the guidance in section 6 of this Code. Permanent Secretaries should be advised of any such interests.

4 MINISTERS AND THEIR DEPARTMENTS

General principle

4.1 The Prime Minister is responsible for the overall organisation of the executive and the allocation of functions between Ministers in charge of departments.

Approval criteria

4.2 The Prime Minister's approval must be sought where changes are proposed that affect this allocation and the responsibilities for the discharge of ministerial functions. This applies whether the functions in question are derived from statute or from the exercise of the Royal Prerogative, or are general administrative responsibilities.

4.3 The Prime Minister's written approval must be sought where it is proposed to transfer functions:

a. between Ministers in charge of departments; and
b. between junior Ministers within a department unless the changes are de minimis. .

4.4 In addition, the Prime Minister's written approval should be sought for proposals to allocate new functions to a particular Minister where the function does not fall wholly within the field of responsibilities of one Minister, or where there is disagreement about who should be responsible.

4.5 Unresolved disputes concerning the allocation of functions should be referred to the Cabinet Secretary before a submission is made to the Prime Minister.

Ministers outside the Cabinet

4.6 The Minister in charge of a department is solely accountable to Parliament for the exercise of the powers on which the administration of that department depends. The Minister's authority may, however, be delegated to a Minister of State, a Parliamentary Secretary, or to an official. It is desirable that Ministers in charge should devolve to their junior Ministers responsibility for a defined range of departmental work, particularly in connection with Parliament.

4.7 A Minister's proposal for the assignment of duties to junior Ministers, together with any proposed "courtesy titles" descriptive of their duties should be agreed in writing with the Prime Minister, copied to the Cabinet Secretary.

4.8 Ministers of State and Parliamentary Secretaries will be authorised to supervise the day-to-day administration of a defined range of subjects. This arrangement does not relieve the Permanent Secretary of general responsibility for the

organisation and discipline of the department or of the duty to advise on matters of policy. Any conflict of view between junior Ministers and the Permanent Secretary should be resolved by reference to the Minister in charge of the department. If the dispute cannot be resolved it should be referred to the Prime Minister and the Cabinet Secretary.

Arrangements during absence from London

4.9 Departments should ensure appropriate arrangements are made for Ministerial cover when Ministers are absent from London.

4.10 The Prime Minister's prior approval should be sought for the arrangements for superintending the work of a department when the Minister in charge will be absent. Special care must be taken over the exercise of statutory powers. Ministers should seek legal advice in cases of doubt.

Royal Commissions/ Public Inquiries

4.11 The Prime Minister must be consulted in good time about any proposal to set up:

a. Royal Commissions: these can only be set up with the sanction of the Cabinet and after The Queen's approval has been sought by the Prime Minister;

b. Public inquiries under the Inquiries Act 2005.

4.12 The Lord Chancellor and Secretary of State for Justice should also be consulted where there is a proposal to appoint a judge to the above.

5 MINISTERS AND CIVIL SERVANTS

General principle

5.1 Ministers must uphold the political impartiality of the Civil Service, and not ask civil servants to act in any way which would conflict with the *Civil Service Code* and the requirements of the *Constitutional Reform and Governance Act 2010*. Ministers should be professional in their working relationships with the Civil Service and treat all those with whom they come into contact with consideration and respect.

5.2 Ministers have a duty to give fair consideration and due weight to informed and impartial advice from civil servants, as well as to other considerations and advice in reaching policy decisions, and should have regard to the *Principles of Scientific Advice to Government*.

The role of the Accounting Officer

5.3 Heads of departments and the chief executives of executive agencies are appointed as Accounting Officers. This is a personal responsibility for the propriety and regularity of the public finances for which he or she is responsible; for keeping proper accounts; for the avoidance of waste and extravagance; and for the efficient and effective use of resources. Accounting Officers answer personally to the Committee of Public Accounts on these matters, within the framework of Ministerial accountability to Parliament for the policies, actions and conduct of their departments.

5.4 Accounting Officers have a particular responsibility to see that appropriate advice is tendered to Ministers on all matters of financial propriety and regularity and more broadly as to all considerations of prudent and economical administration, efficiency and effectiveness and value for money. In line with the principles set out in *Managing Public Money*, if a Minister in charge of a department is contemplating a course of action which would involve a transaction which the Accounting Officer considers would breach the requirements of propriety or regularity, the Accounting Officer will set out in writing his or her objections to the proposal, the reasons for the objection and the duty to inform the Comptroller and Auditor General should the advice be overruled.

5.5 If the Minister decides nonetheless to proceed, the Accounting Officer will seek a written instruction to take the action in question. The Accounting Officer is obliged to comply with the instructions and send relevant papers to the Comptroller and Auditor General. A similar procedure applies where the Accounting Officer has concerns about whether a proposed course of action offers value for money. This

notification process enables the Committee of Public Accounts to see that the Accounting Officer does not bear personal responsibility for the actions concerned.

Senior Responsible Owners

5.6 Senior Responsible Owners of the Government's major projects (as defined in the Government's Major Project Portfolio) are expected to account to Parliament, for the decisions and actions they have taken to deliver the projects for which they have personal responsibility. This line of accountability relates to implementation (not policy development).

Former Accounting Officers and Senior Responsible Owners

5.7 Former Accounting Officers and Senior Responsible Owners may be invited to return to give evidence to departmental Select Committees and the Public Accounts Committee on matters for which they were previously responsible. Where a Committee wishes to take evidence from a former Accounting Officer or Senior Responsible Owner, the request should be agreed where there is a clear rationale for doing so.

6 MINISTERS' CONSTITUENCY AND PARTY INTERESTS

General principle

6.1 Ministers are provided with facilities at Government expense to enable them to carry out their official duties. These facilities should not generally be used for Party or constituency activities.

Use of Government property/ resources

6.2 Government property should not generally be used for constituency work or party political activities. A particular exception is recognised in the case of official residences. Where Ministers host Party or personal events in these residences it should be at their own or Party expense with no cost falling to the public purse. (See also paragraph 7.10).

6.3 Official facilities and resources may not be used for the dissemination of material which is essentially party political. The conventions governing the work of the Government Communication Service are set out in the Government Communication Service's *Propriety Guidance – Guidance on Government Communications.*

Constituency interests

6.4 Where Ministers have to take decisions within their departments which might have an impact on their own constituencies, they must take particular care to avoid any possible conflict of interest. Within departments, the Minister should advise their Permanent Secretary and, in the case of junior Ministers, their Secretary of State and Permanent Secretary of the interest and responsibilities should be arranged to avoid any conflict of interest.

6.5 Ministers are free to make their views about constituency matters known to the responsible Minister by correspondence, leading deputations or by personal interview provided they make clear that they are acting as their constituents' representative and not as a Minister.

6.6 Ministers are advised to take particular care in cases relating to planning applications in their constituencies or other similar issues. In all such cases, it is important that they make clear that they are representing the views of their constituents, avoid criticism of Government policies and confine themselves to comments which could reasonably be made by those who are not Ministers. Once a decision has been announced, it should normally be accepted without question or criticism.

6.7 Particular care also needs to be taken over cases in which a Minister may have a personal interest or connection, for example because they concern family, friends or employees. If,

exceptionally, a Minister wishes to raise questions about the handling of such a case they should advise their Permanent Secretary and write to the Minister responsible, as with constituency cases, but they should make clear their personal connection or interest. The responsible Minister should ensure that any enquiry is handled without special treatment.

Lottery bids

6.8 In order to avoid the impression that Ministers are seeking to influence decisions on awards of Lottery money, Ministers should not normally give specific public support for individual applications for Lottery funding. Where a Minister wishes to lend support to a specific project within their constituency they should do so on the very clear understanding that it is in a constituency capacity.

Parliamentary Commissioner for Administration cases (Parliamentary Ombudsman)

6.9 Ministers in the Commons who are asked by members of the public to submit cases to the Parliamentary Commissioner for Administration should act no differently from other MPs in deciding whether to refer complaints to the Commissioner on the merits of the individual case.

6.10 Where a complaint from a constituent is against the Minister's own department the Minister should ask a neighbouring MP to take up the constituent's case on his or her behalf.

7 MINISTERS' PRIVATE INTERESTS

General principle

7.1 Ministers must ensure that no conflict arises, or could reasonably be perceived to arise, between their public duties and their private interests, financial or otherwise.

Responsibility for avoiding a conflict

7.2 It is the personal responsibility of each Minister to decide whether and what action is needed to avoid a conflict or the perception of a conflict, taking account of advice received from their Permanent Secretary and the independent adviser on Ministers' interests.

Procedure

7.3 On appointment to each new office, Ministers must provide their Permanent Secretary with a full list in writing of all interests which might be thought to give rise to a conflict. The list should also cover interests of the Minister's spouse or partner and close family which might be thought to give rise to a conflict.

7.4 Where appropriate, the Minister will meet the Permanent Secretary and the independent adviser on Ministers' interests to agree action on the handling of interests. Ministers must record in writing what action has been taken, and provide the Permanent Secretary and the independent adviser on Ministers' interests with a copy of that record.

7.5 The personal information which Ministers disclose to those who advise them is treated in confidence. However, a statement covering relevant Ministers' interests will be published twice yearly.

7.6 Where it is proper for a Minister to retain a private interest, he or she should declare that interest to Ministerial colleagues if they have to discuss public business which in any way affects it and the Minister should remain entirely detached from the consideration of that business. Similar steps may be necessary in relation to a Minister's previous interests.

Financial interests

7.7 Ministers must scrupulously avoid any danger of an actual or perceived conflict of interest between their Ministerial position and their private financial interests. They should be guided by the general principle that they should either dispose of the interest giving rise to the conflict or take alternative steps to prevent it. In reaching their decision they should be guided by the advice given to them by their Permanent Secretary and the independent adviser on Ministers' interests. Ministers' decisions should not be influenced by the hope or expectation of future employment with a particular firm or organisation.

Steps to be taken where financial interests are retained

7.8 Where exceptionally it is decided that a Minister can retain an interest, the Minister and the department must put processes in place to prohibit access to certain papers and ensure that the Minister is not involved in certain decisions and discussions relating to that interest.

7.9 In some cases, it may not be possible to devise a mechanism to avoid a conflict of interest. In any such case, the Prime Minister must be consulted and it may be necessary for the Minister to cease to hold the office in question.

Official Residences

7.10 Where a Minister is allocated an official residence, they must ensure that all personal tax liabilities, including council tax, are properly discharged, and that they personally pay such liabilities. Ministers who occupy an official residence will not be able to claim accommodation expenses from the Independent Parliamentary Standards Authority (See also paragraph 6.2).

Public appointments

7.11 When they take up office, Ministers should give up any other public appointment they may hold. Where exceptionally it is proposed that such an appointment should be retained, the Minister should seek the advice of their Permanent Secretary and the independent adviser on Ministers' interests.

Non-Public Bodies

7.12 Ministers should take care to ensure that they do not become associated with non-public organisations whose objectives may in any degree conflict with Government policy and thus give rise to a conflict of interest.

7.13 Ministers should not therefore normally accept invitations to act as patrons of, or otherwise offer support to, pressure groups, or organisations dependent in whole or in part on Government funding. There is normally less objection to a Minister associating him or herself with a charity, subject to the points above, but Ministers should take care to ensure that in participating in any fund-raising activity, they do not place, or appear to place, themselves under an obligation as Ministers to those to whom appeals are directed and for this reason they should not approach individuals or companies personally for this purpose. In all such cases, the Minister should consult their Permanent Secretary and where appropriate the independent adviser on Ministers' interests.

Membership of Select Committees/ All Party Parliamentary Groups

7.14 In order to avoid any conflict of interest, Ministers on taking up office should give up membership or chairmanship of a Select Committee or All Party Parliamentary Group. This is to avoid any risk of criticism that a Minister is seeking to influence the Parliamentary process. It is also to avoid being drawn into a situation whereby their membership of a Committee could result

in the belief that ministerial support is being given to a particular policy or funding proposal.

Trade Unions

7.15 There is, of course, no objection to a Minister holding trade union membership but care must be taken to avoid any actual or perceived conflict of interest. Accordingly, Ministers should arrange their affairs so as to avoid any suggestion that a union of which they are a member has any undue influence; they should take no active part in the conduct of union affairs, should give up any office they may hold in a union and should receive no remuneration from a union. A nominal payment purely for the purpose of protecting a Minister's future pension rights is acceptable.

Legal proceedings

7.16 Where Ministers become involved in legal proceedings in a personal capacity, there may be implications for them in their official position. Defamation is an example of an area where proceedings will invariably raise issues for the Minister's official as well as his or her private position. In all such cases, Ministers should consult the Law Officers in good time and before legal proceedings are initiated so that they may offer guidance on the potential implications and handling of the proceedings.

7.17 Similarly, when a Minister is a defendant or a witness in an action, he or she should notify the Law Officers as soon as possible. Preferably, this should be before he or she has instructed his or her own solicitors in the matter.

Nomination for prizes and awards

7.18 From time to time, the personal support of Ministers is requested for nominations being made for international prizes and awards, for example, the annual Nobel prizes. Ministers should not sponsor individual nominations for any awards, since it would be inevitable that some people would assume that the Government was itself thereby giving its sponsorship.

Foreign decorations

7.19 Ministers should not normally, while holding office, accept decorations from foreign countries. Where such an award is offered, Ministers should consult the Foreign and Commonwealth Office and the Cabinet Office on the merits of accepting.

Acceptance of gifts and hospitality

7.20 It is a well established and recognised rule that no Minister should accept gifts, hospitality or services from anyone which would, or might appear to, place him or her under an obligation. The same principle applies if gifts etc are offered to a member of their family.

7.21 This is primarily a matter which must be left to the good sense of Ministers. But any Minister in doubt or difficulty over this

should seek the advice of their Permanent Secretary.

7.22 Gifts given to Ministers in their Ministerial capacity become the property of the Government and do not need to be declared in the Register of Members' or Peers' Interests. Gifts of small value, currently this is set at £140, may be retained by the recipient. Gifts of a higher value should be handed over to the department for disposal unless the recipient wishes to purchase the gift abated by £140. There is usually no customs duty or import VAT payable on the importation of official gifts received overseas. HMRC can advise on any cases of doubt. If a Minister wishes to retain a gift he or she will be liable for any tax it may attract. Departments will publish, on a quarterly basis, details of gifts received and given by Ministers valued at more than £140.

7.23 Gifts given to Ministers as constituency MPs or members of a political Party fall within the rules relating to the Registers of Members' and Lords' Interests.

7.24 Departments will publish, quarterly, details of hospitality received by Ministers in a Ministerial capacity. Hospitality accepted as an MP or Peer should be declared in the Register of Members' or Lords' Interests respectively.

Acceptance of appointments after leaving ministerial office

7.25 On leaving office, Ministers will be prohibited from lobbying Government for two years. They must also seek advice from the independent Advisory Committee on Business Appointments (ACoBA) about any appointments or employment they wish to take up within two years of leaving office. Former Ministers must ensure that no new appointments are announced, or taken up, before the Committee has been able to provide its advice. To ensure that Ministers are fully aware of their future obligations in respect of outside appointments after leaving office, the *Business Appointment Rules* are attached at Annex B. Former Ministers must abide by the advice of the Committee which will be published by the Committee when a role is announced or taken up.

8 MINISTERS AND THE PRESENTATION OF POLICY

General principle

8.1 Official facilities paid for out of public funds should be used for Government publicity and advertising but may not be used for the dissemination of material which is essentially party political. The conventions governing the work of the Government Communication Service are set out in the Government Communication Service's *Propriety Guidance – Guidance on Government Communications.*

Media interviews, speeches etc

8.2 In order to ensure the effective coordination of Cabinet business, the policy content and timing of all major announcements, speeches, press releases and new policy initiatives should be cleared in draft with the No 10 Press and Private Offices at least 24 hours in advance. All major interviews and media appearances, both print and broadcast, should also be agreed with the No 10 Press Office.

8.3 In all cases other than those described in paragraph 6.6, the principle of collective responsibility applies (see also paragraph 2.1). Ministers should ensure that their statements are consistent with collective Government policy. Ministers should take special care in referring to subjects which are the responsibility of other Ministers (see also paragraph 2.3).

8.4 Ministers must only use official machinery, including social media, for distributing texts of speeches relating to Government business. Speeches made in a party political context should not be distributed via official machinery.

8.5 Ministers invited to broadcast on radio, television and/or webcasts in a political or private capacity should consider if such a broadcast would have a bearing on another department's responsibilities, in which case they should clear the matter with the ministerial colleague concerned before agreeing to the invitation.

Press articles

8.6 Ministers may contribute to a book, journal or newspaper, including a local newspaper in their constituency, provided that publication will not be at variance with their obligations to Parliament and their duty to observe the principle of collective Ministerial responsibility. No payment should be accepted for such articles.

8.7 Any Minister wishing to practice regular journalism must have the prior approval of the No 10 Press Office.

Payment for speeches, media articles etc

8.8 Ministers should not accept payment for speeches or media articles of an official nature or which directly draw on their responsibilities or experience as Ministers or with a view to donating the fee to charity. If the organisation in question insists on making a donation to a charity then it should be a charity of the organisation's choice. This is to avoid any criticism that a Minister is using his or her official position to influence or take the credit for donations to charity.

Books

8.9 Ministers may not, while in office, write and publish a book on their ministerial experience. Nor, while serving as a Minister, may they enter into any agreement to publish their memoirs on leaving their ministerial position.

8.10 Former Ministers intending to publish their memoirs are required to submit the draft manuscript in good time before publication to the Cabinet Secretary and to conform to the principles set out in the Radcliffe report of 1976 (Cmnd 6386).

Surveys

8.11 Ministers are sometimes asked to give interviews to persons engaged in academic research or in market opinion surveys or questionnaires. Ministers should bear in mind the possibility that their views may be reported in a manner incompatible with their responsibilities and duties as members of the Government and such interviews should normally be declined.

Publication of White and consultation papers

8.12 Care should be taken to avoid infringing Parliamentary privilege when publicity is being arranged for White Papers and similar documents. A procedure is available whereby Confidential Final Revise proof copies can be made available. In some cases for instance, where commercially sensitive material is involved, no copies should be made available to the media before publication. See also paragraph 2.6 for clearance of the content of White Papers and similar documents.

Complaints

8.13 Ministers who wish to make a complaint against a journalist or a particular section of the media to the appropriate regulator, must have the approval of the No 10 Chief Press Secretary. Paragraph 7.16 is also relevant in relation to defamation proceedings.

Meetings with external organisations

8.14 Ministers meet many people and organisations and consider a wide range of views as part of the formulation of Government policy. Meetings on official business should normally be arranged through Ministers' departments. A private secretary or official should be present for all discussions relating to Government business. If a Minister meets an external organisation or individual and finds themselves discussing official business without an official present – for example at a social occasion or on holiday – any significant content should be passed back to the department as soon as possible after the event. Departments will publish quarterly, details of Ministers' external meetings. Meetings with newspaper and other media proprietors, editors and senior executives will be published on a quarterly basis regardless of the purpose of the meeting.

Statistics

8.15 Ministers need to be mindful of the UK Statistics Authority's *Code of Practice* which defines good practice in relation to official statistics, observance of which is a statutory requirement on all organisations that produce National Statistics in accordance with the provisions of the *Statistics and Registration Service Act 2007*.

Pre-release access rules

8.16 Ministers also need to have regard to the *Pre-Release Access to Official Statistics Order,* which places strict conditions on access to official statistics in their final form and significantly limits access ahead of publication. The Order requires Ministers to restrict pre-release access to a minimum number of persons and prohibits any statement or comment to the press ahead of release of the statistics.

9 MINISTERS AND PARLIAMENT

General principle

9.1 When Parliament is in session, the most important announcements of Government policy should be made in the first instance, in Parliament.

Timing and form of announcement

9.2 Even when Government announcements are not of major importance their timing may require careful consideration in order to avoid clashes with other Government publications, statements or announcements or with planned Parliamentary business. The Offices of the Leader of the Commons, the Chief Whip and the Prime Minister should be given as long an opportunity as possible to comment on all important announcements.

9.3 Every effort should be made to avoid leaving significant announcements to the last day before a recess.

Oral Statements

9.4 Ministers should not give undertakings, either in or outside the House of Commons, that an oral statement will be made to the House until the agreement has been given by the private secretaries to the Prime Minister, the Leader of the House of Commons and the Chief Whip. The Leader of the House of Lords and Lords Chief Whip should be consulted where a statement is to be made in the House of Lords in the first instance.

9.5 A copy of the text of an oral statement should usually be shown to the Opposition shortly before it is made. For this purpose, 15 copies of the statement and associated documents should be sent to the Chief Whip's Office at least 45 minutes before the statement is to be made. At the same time, a copy of the final text of an oral statement should in all cases be sent in advance to the Speaker.

9.6 Every effort must be made to ensure that where a former Minister or a Ministerial colleague and/or a fellow MP/Peer is mentioned in a statement or report which prompts a Ministerial statement, he or she is given as much notice as is reasonably possible.

Select Committee Reports

9.7 Any Minister or Parliamentary Private Secretary who receives a copy of a Select Committee report in advance of publication excluding copies sent to departments at the Confidential Final Revise stage should make no use of them and should return them without delay to the Clerk of the relevant Committee. Civil servants, including special advisers, are also covered by this ruling.

10 TRAVEL BY MINISTERS

General principle

10.1 Ministers must ensure that they always make efficient and cost-effective travel arrangements. Official transport should not normally be used for travel arrangements arising from Party or private business, except where this is justified on security grounds.

Overseas visits

10.2 Ministers should make it their personal responsibility to approve the size and composition of Ministerial delegations for which their department is responsible, including any accompanying special advisers, keeping delegations as small as reasonably possible. Ministers will wish to be satisfied that their arrangements could be defended in public.

10.3 Departments will publish quarterly, details of all travel overseas by Ministers.

10.4 When Ministers travel on official business, their travel expenses should be borne by the departmental vote. Offers of free travel should not normally be accepted. The only exception to this is in the case of an offer of transport from an overseas government provided no undue obligation is created.

10.5. When holding meetings overseas with Ministers and/or officials from overseas governments, or where official business is likely to be discussed, Ministers should always ensure that a private secretary or Embassy official is present. If a Minister meets an external organisation or individual and finds themselves discussing official business without an official present – for example at a social occasion or on holiday – any significant content should be passed back to the department as soon as possible after the event. Ministers should seek guidance in advance from their Permanent Secretary, who should consult the Foreign and Commonwealth Office in cases of doubt.

Non-scheduled flights

10.6 Only members of the Cabinet and Ministers in charge of Departments have discretion to authorise special flights either for themselves or other Ministers within their Departments. Non-scheduled flights may be authorised when a scheduled service is not available, or when it is essential to travel by air, but the requirements of official or Parliamentary business or security considerations preclude the journey being made by a

scheduled service. Use of special flights by Parliamentary Secretaries should only be approved in exceptional circumstances.

10.7 Non-scheduled flights must not be diverted for journeys to or from party business or constituency visits. When the time factor is critical, diversions from direct routes may, however, be authorised to collect or deliver a Minister to an airfield near his or her home provided that the only extra cost results from the extra flying time needed to carry out the additional landing and take-off.

10.8 In addition, Ministers travelling on business of the defence departments or visiting a Service or Defence Establishment may use Ministry of Defence aircrafts in accordance with rules and procedures approved by the Secretary of State for Defence.

Ministers recalled from abroad

10.9 If a Minister is abroad with permission and is called home for ministerial or Parliamentary reasons – including to vote – the cost of the extra journey back and forth may be met by public funds.

UK visits

10.10 Ministers intending to make an official visit within the United Kingdom must inform in advance, and in good time, the MPs whose constituencies are to be included within the itinerary.

10.11 Similar courtesies should be extended when UK Ministers are visiting the constituencies of members of the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly.

10.12 Ministers who are planning official visits to Scotland, Wales and Northern Ireland should inform the Secretary of State concerned.

Use of Official cars

10.13 Ministers are permitted to use an official car for official business and for home to office journeys within a reasonable distance of London on the understanding that they are using the time to work. Where practicable, Ministers are encouraged to use public transport.

10.14 The number of Ministers with allocated cars and drivers will be kept to a minimum, taking into account security and other relevant considerations. Other Ministers will be entitled to use cars from the Government

Car Service Pool as needed.

Party Political occasions

10.15 Where a visit is a mix of political and official engagements, it is important that the department and the Party each meet a proper proportion of the actual cost.

10.16 The Prime Minister, and any other Minister for whom the security authorities exceptionally consider it essential, may use their official cars for all journeys by road, including those for private or Party purposes.

Air Miles

10.17 Air miles and other benefits earned through travel paid for from public funds, other than where they are de minimis for example, access to special departure lounges or booking arrangements which go with membership of regular flier clubs, should be used only for official purposes or else foregone. If it is impracticable to use the benefits for Government travel, there is no objection to Ministers donating them to charity if this is permissible under the terms of the airline's scheme and the charity is one chosen by the airline.

Travelling expenses of spouses/partners

10.18 The expenses of a Minister's spouse/partner when accompanying the Minister on the latter's official duties may occasionally be paid from public funds provided that it is clearly in the public interest that he or she should accompany the Minister. The agreement of the Prime Minister must be obtained on each occasion before travel.

ANNEX A

The Seven Principles of Public Life

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable for their decisions and actions and must submit themselves to whatever scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for doing so. .

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

ANNEX B

Business Appointment Rules for Former Ministers

It is in the public interest that former Ministers with experience in Government should be able to move into business or into other areas of public life, and to be able to start a new career or resume a former one. It is equally important that when a former Minister takes up a particular appointment or employment, there should be no cause for any suspicion of impropriety.

The Rules

"On leaving office, Ministers will be prohibited from lobbying Government for two years. They must also seek advice from the independent Advisory Committee on Business Appointments about any appointments or employment they wish to take up within two years of leaving office. Former Ministers must abide by the advice of the Committee." [Ministerial Code, section 7.25]

1. The business appointment rules for former Ministers seek to counter suspicion that:

    a) the decisions and statements of a serving Minister might be influenced by the hope or expectation of future employment with a particular firm or organisation; or

    b) an employer could make improper use of official information to which a former Minister has had access; or

    c) there may be cause for concern about the appointment in some other particular respect.

Applications by Former Ministers

2. A fully completed application form will in most cases provide the Advisory Committee with the information it requires in order to give its advice. The form can be accessed at:

    https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/409591/business_appointments_application_form_-_former_ministers__2015_.doc

3. The Committee will need to consider details of the proposed appointment or employment, which includes any proposal to undertake consultancy work. If necessary, the Committee will seek, in confidence, additional information from senior officials of a former Minister's Department(s) about any contact with the prospective employer or its competitors and the nature of any contractual, regulatory or other relationships with them. The Committee will also, if relevant to the proposed appointment or employment, take account of any other role that the former Minister may have been (or still be) carrying out on behalf of the Government. With the former Minister's permission, the Committee may wish to contact the proposed new employer for clarification of the proposed appointment or employment and notification of the conditions that will apply to it.

4. Retrospective applications will not normally be accepted.

5. The Advisory Committee will consider each request for advice about an appointment or employment on its merits, against specific tests relating to the following:

   I. to what extent, if at all, has the former Minister been in a position which could lay him or her open to the suggestion that the appointment was in some way a reward for past favours?

   II. has the former Minister been in a position where he or she has had access to trade secrets of competitors, knowledge of unannounced Government policy or other sensitive information which could give his or her new employer an unfair or improper advantage?

   III. is there another specific reason why acceptance of the appointment or employment could give rise to public concern on propriety grounds directly related to his or her former Ministerial role?

6. The Advisory Committee will need to balance any points arising under these tests against the desirability of former Ministers being able to move into business or other areas of public life, and the need for them to be able to start a new career or resume a former one.

Restrictions

7. The Advisory Committee may advise that they see no reason why an appointment or employment should not be taken up forthwith without any condition. However, if it considers that public concern could be of such a degree or character, it may recommend a delay in taking up the appointment, or that for a specified period the former Minister should stand aside from involvement in certain activities, for example, commercial dealings with his or her former Department, or involvement in particular areas of the new employer's business. Any conditions

advised may apply for a maximum of two years after the former Minister leaves office. Exceptionally, the Committee may advise that they view a particular appointment or employment to be unsuitable.

8. As a general principle, there will be a two-year ban on former Ministers lobbying Government after they leave office. This means that a former Minister should not engage in communication with Government (Ministers, civil servants, including special advisers, and other relevant officials/public office holders) – wherever it takes place - with a view to influencing a Government decision, policy or contract award/grant in relation to their own interests or the interests of the organisation by which they are employed, or to whom they are contracted or with which they hold office. This does not prohibit contacts, including at a social or party political level which is unrelated to such lobbying. The Advisory Committee may reduce the two-year lobbying ban if they consider this to be justified by the particular circumstances of an individual application.

9. In certain cases, due to the nature of the proposed appointment or employment, the Advisory Committee may, at its discretion, recommend that the lobbying ban need not prevent communications with Government on matters that are an integral part of the normal course of business for the organisation concerned.

10. A minimum waiting period of three months from the date of leaving office to taking up an appointment or employment will be expected when the former Minister was a member of Cabinet, and may also be applied to other former Ministers if the Advisory Committee believes this to be warranted by the circumstances of the individual case. The Committee may waive this minimum waiting period if, in its judgement, no question of propriety or public concern arises from the appointment or employment being taken up earlier. Equally, the Committee may consider that public concern about a particular appointment or employment could be of such a degree or character that a longer waiting period is appropriate up to the maximum period of two years that may be applied.

11. The Advisory Committee aims to provide their advice within 15 working days from receipt of the required information. Complex cases may take longer, but in such cases, the Advisory Committee's Secretariat will notify the former Minister concerned.

12. If, having received the Advisory Committee's advice, a former Minister has concerns, he or she will have an opportunity to make representations to the Committee, including an opportunity to meet with the Committee if they so wish.

Publicising the Advisory Committee's Advice[1]

13. All approaches to the Advisory Committee will be handled in strict confidence, and will remain confidential until the appointment or employment is publicly announced or taken up, at which time the Committee will make public its advice, alongside summary details of the former Minister's last Ministerial post, and the appointment or employment to be taken up. Details will be placed on its website (https://www.gov.uk/acoba) and in its annual report. If asked, the Committee will say publicly whether or not its advice had been sought about an appointment or employment that had been taken up within two years of a Minister leaving office.

[1] The Committee handles personal information provided to it in accordance with the Data Protection Act 1998. Such information may on limited occasions be published, for example, if the Committee is required to publish information in accordance with the Freedom of Information Act 2000.

Review of Local Government Ethical Standards: Stakeholder Consultation

The Committee on Standards in Public Life is undertaking a review of local government ethical standards.

Robust standards arrangements are needed to safeguard local democracy, maintain high standards of conduct, and to protect ethical practice in local government.

As part of this review, the Committee is holding a public stakeholder consultation. The consultation is open from 12:00 on Monday 29 January 2018 and closes at 17:00 on Friday 18 May 2018.

Terms of reference

The terms of reference for the review are to:

1. Examine the structures, processes and practices in local government in England for:
    a. Maintaining codes of conduct for local councillors;
    b. Investigating alleged breaches fairly and with due process;
    c. Enforcing codes and imposing sanctions for misconduct;
    d. Declaring interests and managing conflicts of interest; and
    e. Whistleblowing.
2. Assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government;
3. Make any recommendations for how they can be improved; and
4. Note any evidence of intimidation of councillors, and make recommendations for any measures that could be put in place to prevent and address such intimidation.

The review will consider all levels of local government in England, including town and parish councils, principal authorities, combined authorities (including Metro Mayors) and the Greater London Authority (including the Mayor of London).

Local government ethical standards are a devolved issue. The Committee's remit does not enable it to consider ethical standards issues in devolved nations in the UK except with the agreement of the relevant devolved administrations. However, we welcome any evidence relating to local government ethical standards in the devolved nations of the UK, particularly examples of best practice, for comparative purposes.

Submissions will be published online alongside our final report, with any contact information (for example, email addresses) removed.

Consultation questions

The Committee invites responses to the following consultation questions.

Please note that not all questions will be relevant to all respondents and that submissions do not need to respond to every question. Respondents may wish to give evidence about only one local authority, several local authorities, or local government in England as a whole.

Please do let us know whether your evidence is specific to one particular authority or is a more general comment on local government in England.

Whilst we understand submissions may be grounded in personal experience, please note that the review is not an opportunity to have specific grievances considered.

a. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.
b. What, if any, are the most significant gaps in the current ethical standards regime for local government?

Codes of conduct

c. Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?
d. A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.

Investigations and decisions on allegations

e. Are allegations of councillor misconduct investigated and decided fairly and with due process?
    i. What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?
    ii. Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?
    iii. Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

Sanctions

f. Are existing sanctions for councillor misconduct sufficient?
    i. What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?

ii. Should local authorities be given the ability to use additional sanctions? If so, what should these be?

Declaring interests and conflicts of interest

g. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.
    i. A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?
    ii. What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.

Whistleblowing

h. What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?

Improving standards

i. What steps could *local authorities* take to improve local government ethical standards?
j. What steps could *central government* take to improve local government ethical standards?

Intimidation of local councillors

k. What is the nature, scale, and extent of intimidation towards local councillors?
    i. What measures could be put in place to prevent and address this intimidation?

Who can respond?

Anyone with an interest may make a submission. The Committee welcomes submissions from members of the public.

However, the consultation is aimed particularly at the following stakeholders, both individually and corporately:

- Local authorities and standards committees;
- Local authority members (for example, Parish Councillors, District Councillors);
- Local authority officials (for example, Monitoring Officers);
- Think tanks with an interest or expertise in local government;
- Academics with interest or expertise in local government; and
- Representative bodies or groups related to local government.

How to make a submission

Submissions can be sent either in electronic format or in hard copy.

Submissions must:

- State clearly who the submission is from, i.e. whether from yourself or sent on behalf of an organisation;
- Include a brief introduction about yourself/your organisation and your reason for submitting evidence;
- Be in doc, docx, rtf, txt, ooxml or odt format, not PDF;
- Be concise – we recommend no more than 2,000 words in length; and
- Contain a contact email address if you are submitting by email.

Submissions should:

- Have numbered paragraphs; and
- Comprise a single document. If there are any annexes or appendices, these should be included in the same document.

It would be helpful if your submission included any factual information you have to offer from which the Committee might be able to draw conclusions, and any recommendations for action which you would like the Committee to consider.

The Committee may choose not to accept a submission as evidence, or not to publish a submission even if it is accepted as evidence. This may occur where a submission is very long or contains material which is inappropriate.

Submissions sent to the Committee after the deadline of 17:00 on Friday 18 May 2018 may not be considered.

Submissions can be sent:

1. Via email to: public@public-standards.gov.uk
2. Via post to:

   Review of Local Government Ethical Standards
   Committee on Standards in Public Life
   GC:07
   1 Horse Guards Road
   London
   SW1A 2HQ

If you have any questions, please contact the Committee's Secretariat by email (public@public-standards.gov.uk) or phone (0207 271 2948).

Report to Standards Committee

Subject: Code of Conduct Complaints

Date: 8 February 2018

Author: Director of Organisational Development and Democratic Services

1. Purpose of the Report

To inform members of the Standards Committee of complaints received between 20 June 2017 and 30 January 2018.

2. Background

2.1 A summary of the complaints received since the implementation of the existing Standards regime (from 1 July 2012) is set out in the table at Appendix 1. Since 20 June 2017, the Monitoring Officer has received two new code of conduct complaints.

2.2 Members of the Standards Committee will recall that at the time of the last committee meeting, one complaint was outstanding and subject to investigation. This investigation has been discontinued and the case closed as the subject member is no longer a councillor.

2.3 In relation to the two complaints received since June 2017, one has been determined and one is awaiting a decision at initial assessment stage. A summary of the complaint which has been determined appears at Appendix 2.

3. Proposal

It is proposed that the Committee notes the report.

4. Resource Implications

None.

5. Recommendation

It is recommended that the Committee notes the report.

6. Appendices

Appendix 1 – Summary of the Code of Conduct complaints received since 1 July 2012.

Appendix 2 – Summary of complaints determined between 20 June 2017 and 30 January 2018.

Complaint Ref	Date received	GBC/Parish Council	Complainant	Decision	Date of decision
13/01	30/09/13	GBC	Member of public	No action	12/11/13
14/01	06/01/14	GBC	Member of public	Other Action (issue revised guidance on pre-determination)	05/02/14
14/02	18/07/14	GBC	Member of public	No action	12/08/14
14/03	18/07/14	GBC	Member of public	No action	12/08/14
14/04	21/07/14	Woodborough PC	Member of public	Informal resolution (apology)	26/08/14
15/01	05/05/15	GBC	Member of public	No action	09/06/15
15/02	15/09/15	Bestwood St. Albans PC	Member of public	No action	15/10/15
15/03	15/10/15	Bestwood St. Albans PC	Clerk	Local resolution (apology and procedural recommendation to Parish Council)	24/11/06
15/04	15/10/15	Bestwood St. Albans PC	Clerk	No action	26/11/15
16/01	08/03/16	Bestwood St. Albans PC	Clerk	Refer for investigation Investigation discontinued and case closed	05/05/16 38/07/17
16/02	17/03/16	Bestwood St. Albans PC	Member of public	No action	13/05/16
16/03	18/03/16	Bestwood St. Albans PC	Member of public	Informal resolution (training)	01/06/16
16/04	29/05/16	Bestwood St. Albans PC	Member of public	Other action (various procedural recommendations to Parish Council)	17/08/16
STD000299	05/06/17	GBC	Member of public	No action – outside scope of Code	19/06/17
STD000301	05/06/17	GBC	Member of public	No action – outside scope of Code	19/06/17

STD000302	05/06/17	GBC	Member of public	No action – outside scope of Code	19/06/17
STD000530	06/11/17	GBC	GBC Councillor	Informal resolution (apology)	15/12/17
STD000668	04/01/18	GBC	Member of public		

Reference: STD000530

Complaint

The complaint was made about Councillor Boyd Elliott, a Gedling Borough Councillor by a Gedling Borough Councillor. The complainant complains about the conduct of Councillor Elliott at a meeting of the Planning Committee held on 18 October 2017.

A general summary of the complaint is set out below:

At a meeting of the Planning Committee held on the 18th October a large number the public attended along with Calverton Parish Council Members. An application to develop a part of St Wilfrid's Square was being considered and had generated considerable opposition. After a named vote, planning permission was granted and there was a lot of anger and shouting from Calverton residents. Councillor Boyd Elliott then shouted very loudly that "the difference is Conservatives aren't whipped unlike the Labour Councillors who are".

In response to the complaint Councillor Elliott pointed out that a very contentious planning issue was being dealt with by Planning Committee, and after the decision there was a lot of displeasure from Calverton residents present. He accepted that, whilst he was representing the views of his residents, he did not act as a Councillor should have done and for that reason apologised.

Potential breaches of the Code of Conduct considered

Paragraph 5(1) of the Gedling Borough Council code of conduct requires Members to treat others with respect, including the organisations and public they engage with and those they work alongside.

Failing to treat others with respect might be defined as unfair, unreasonable or demeaning behaviour directed by one person against another. I consider that most reasonable members of the public would take into account the context in which particular language and behaviour has been used in assessing whether it was "disrespectful". The context might include the place where an incident occurred, who observed the behaviour, the character and relationship of the people involved, and the behaviour of one or more of the parties that prompted an alleged act of disrespect.

Paragraph 7 provides that members must not behave in such a way as to bring their office or authority into disrepute.

Conduct which could reasonably be regarded as bringing their office into disrepute would include reducing public confidence in the member being able to fulfil their role, or adversely affecting the reputation of members generally in being able to fulfil their role.

Decision

After consultation with the Independent Person, the Monitoring Officer has decided that this is an appropriate case, to seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution involves Councillor Elliott accepting that his conduct was unacceptable and offering a meaningful apology to the complainant, members of the Planning Committee and the Labour Group Business Manager.

In summary the reasons for the decision are:

- The accusations went beyond the 'cut and thrust' of lively debate.

- This was a personal attack on the integrity of fellow Councillors.

- No information has been provided to show that the comment was indeed factually correct or the Councillor had reason to believe that it was the case.

- There were several members of the public present at the meeting.

- The comment was made loudly so that the members of the public present could hear it.

- A public statement that members of the Planning Committee have been whipped could undermine the public trust and confidence in the ability of the Planning Committee to make decisions and the reputation of the Council as a whole.

- A public statement that members of the Planning Committee have been whipped could expose the Council to the risk of not only a complaint to the Local Government Ombudsman but also a challenge to the decision of grant of planning permission by way of judicial review.

In response to the Decision Notice, Councillor Elliott accepted that his conduct was unacceptable and offered his apologies.

As part of the complaint the issue of seating arrangements at Committee meetings was raised in particular where councillors who are not members of the Planning Committee sit. The Monitoring Officer provided guidance to all members of Council in relation to this by email dated 9 November 2017.