

Phil Norrey
Chief Executive

To: The Chair and Members of the
Standards Committee

County Hall
Topsham Road
Exeter
Devon
EX2 4QD

(See below)

Your ref :
Our ref :

Date : 2 November 2018
Please ask for : Karen Strahan 01392 382264

Email: karen.strahan@devon.gov.uk

STANDARDS COMMITTEE

Monday, 12th November, 2018

A meeting of the Standards Committee is to be held on the above date at 2.15 pm in the Committee Suite - County Hall to consider the following matters.

P NORREY
Chief Executive

A G E N D A

PART I - OPEN COMMITTEE

1 Apologies for absence

2 Minutes

Minutes of the meeting of the Committee held on 2 July 2018, previously circulated.

3 Items Requiring Urgent Attention

Items which in the opinion of the Chair should be considered at the meeting as a matter of urgency.

STANDING ITEMS

4 Customer Feedback Monitoring Report (Pages 1 - 10)

Report of the Head of Digital Transformation & Business Support on feedback, compliments, representations, complaints received and handled by the County Council and letters from MP's for the 2nd Quarter of 2018 (July to September), attached.

Electoral Divisions(s): All Divisions

5 Local Government & Social Care Ombudsman Annual Review Letter 2017/18 (Pages 11 - 28)

Report of the Ombudsman Link Officer and the Head of Digital Transformation and Business Support on the Local Government & Social Care Ombudsman Complaints Annual Review Letter for 2017-18, attached.

The letter received from the Local Government & Social Care Ombudsman is also attached.

Electoral Divisions(s): All Divisions

6 Ethical Governance Framework: Monitoring (Pages 29 - 32)

Report of the County Solicitor ([CS/18/35](#)) on co-opted members' attendance at meetings of the Council, Cabinet and Committee meetings, monitoring compliance with the Council's ethical governance framework, attached.

Electoral Divisions(s): All Divisions

MATTERS FOR INFORMATION

7 Devon Audit Partnership - Audit of Ethics and Ethical Governance (Pages 33 - 44)

Report of the Devon Audit Partnership on the Audit of Ethics and Ethical Governance, conducted in January 2018 but formally reporting in March 2018, attached.

Electoral Divisions(s): All Divisions

8 Response to the Committee on Standards in Public Life Consultation - Local Government Ethical Standards (Pages 45 - 54)

Members may recall the meeting of the Standards Committee (Minute *27 refers) on 12 March 2018, where the Monitoring Officer advised the Committee of the [Consultation](#) from the Committee on Standards in Public Life's in relation to its review of local government ethical standards. The Consultation closed the 18th May 2018, therefore the Committee agreed that Members would submit their views on the Consultation questions in order for a response to be prepared, a version shared with Members and agreement of the final version being delegated to the County Solicitor in consultation with the Chair of the Committee.

The final response is attached for information.

Electoral Divisions(s): All Divisions

9 Consultation on Updating the Disqualification Criteria for Councillors and Mayors - Summary of consultation responses and Government's response (Pages 55 - 76)

Members may recall the meeting of the Standards Committee (13 November 2017 – [minute *14 refers](#)), where the Committee considered the Report of the County Solicitor (CSO/17/29) on the Government's Consultation on the Disqualification Criteria for Councillors and Mayors. The Report outlined the current disqualification criteria, under relevant legislation which disqualified someone from being the Mayor or an Assembly Member under certain criteria and then the Government's proposals to update the criteria disqualifying individuals from standing for, or holding office as, a local authority member, directly-elected mayor or member of the London Assembly, if they were subject to:

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

The Committee RESOLVED that the Consultation response outlined in the County Solicitors Report (CSO/17/29) be endorsed subject to the additional comments regarding civil injunctions and the views expressed at the meeting relating to juveniles.

The Government has recently published its response to the Consultation, which is attached for the information of Members. This includes a summary of Consultation responses and Government's response.

Governments intends to include the above categories within the disqualification criteria and will be waiting for an appropriate opportunity to include this within primary legislation, although it should be noted that any legislative changes would not apply retrospectively.

Electoral Divisions(s): All Divisions

10 Local Determination of Complaints

County Solicitor to report on complaints or allegations of a breach of the Council's Members' Code of Conduct received since the last meeting, if any.


Electoral Divisions(s): All Divisions

PART II - ITEMS WHICH MAY BE TAKEN IN THE ABSENCE OF PRESS AND PUBLIC ON THE GROUNDS THAT EXEMPT INFORMATION MAY BE DISCLOSED

NIL

Members are reminded that Part II Reports contain confidential information and should therefore be treated accordingly. They should not be disclosed or passed on to any other person(s).

Members are also reminded of the need to dispose of such reports carefully and are therefore urged to return them to the Committee Secretary at the conclusion of the meeting for disposal

Membership
County Councillors Councillors C Chugg (Chair), M Asvachin, R Bloxham, P Colthorpe, A Connett, J Mathews and P Twiss Co-opted Member Sir Simon Day, I Hipkin, R Hodgins, A Mayes and R Saltmarsh
Declaration of Interests
Members are reminded that they must declare any interest they may have in any item to be considered at this meeting, prior to any discussion taking place on that item.
Access to Information
Any person wishing to inspect any minutes, reports or lists of background papers relating to any item on this agenda should contact Karen Strahan 01392 382264. Agenda and minutes of the Committee are published on the Council's Website and can also be accessed via the Modern.Gov app, available from the usual stores.
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If you need a copy of this Agenda and/or a Report in another format (e.g. large print, audio tape, Braille or other languages), please contact the Information Centre on 01392 380101 or email to: centre@devon.gov.uk or write to the Democratic and Scrutiny Secretariat at County Hall, Exeter, EX2 4QD.
 Induction loop system available

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SatNav – Postcode EX2 4QD

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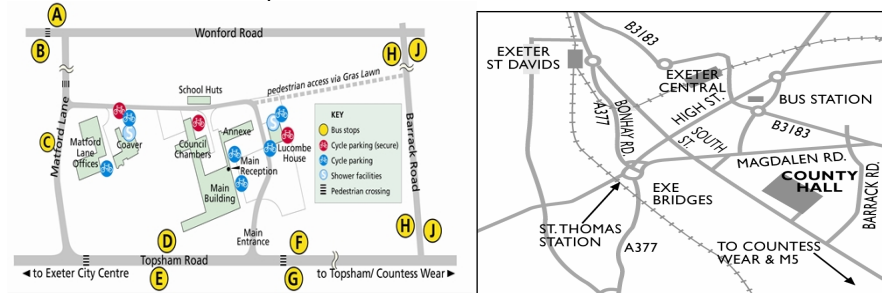
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NB   Denotes bus stops

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First Aid

Contact Main Reception (extension 2504) for a trained first aider.

Customer Feedback Monitoring Report for Quarter 2 (July 2018 – September 2018) Report of the Head of Digital Transformation and Business Support

1. Purpose

- 1.1 This report provides a quarterly update to Standards Committee on the volumes and themes for all types of customer feedback (Compliments, Comments and Complaints), letters from Members of Parliament and Complaints being dealt with by the Local Government and Social Care Ombudsman about Devon County Council. In addition, it provides information regarding the Council's performance in responding to and learning from the outcomes of complaints.

2. Activity overview

- 1.1 Please see appendix 1 for a summary of feedback related activity within the reporting year to date.

3. Stage 1 complaints

- 3.1 Between quarters 1 and 2 we have seen a significant drop in the number of Stage 1 complaints received; the only exception to this is in Adult Social Care which has seen an increase (Appendix 2 – table 3).
- 3.2 Services have either maintained or slightly improved their performance regarding Stage 1 complaint responses between quarters 1 and 2. It should however be noted that in Adult Care and Health the adult complaint regulations allow for a negotiation to the deadline for response to be made with the customer, and therefore all responses could realistically be made within time. (Appendix 2 – table 4).
- 3.3 In quarter 2 services upheld or partially upheld 25% of Stage 1 complaints. The percentage of upheld complaints is not in itself an indicator of poor performance however if this increases significantly in future it may suggest that a further review of the activity within that service is required (Appendix 2 – table 5).
- 3.4 Appendix 2 – table 6 shows the most prevalent issues raised within complaints across all services, and the percentage upheld or partially upheld. It remains a concern that the perceived attitude or rudeness of staff continues to feature in the top 3 issues, particularly as 39% of complaints where this issue was raised were upheld in quarter 1. The quality of service provided features highly in the top issues however there was a lower percentage upheld in quarter 2 than quarter 1.

4. Stage 2 Complaints

- 4.1 Overall there has been a decrease in Stage 2 complaints received in quarter 2 compared to quarter 1, however the numbers being received per quarter are still higher on average than each quarter in 2017-18. This increase is not necessarily an indicator of poor service. Alternatively, it may suggest increased access to the complaints procedure (Appendix 2 – table 7).
- 4.2 The majority of service areas did not resolve any Stage 2 complaints in quarter 2, however all those that did achieved a significant improvement in response rate from the previous quarter (Appendix 2 – table 8).
- 4.3 Overall in quarter 2 there has been a significant increase in the percentage of complaints upheld compared to those upheld at Stage 1. This is concerning as it demonstrates that independent scrutiny of the complaints at Stage 2 is producing a different outcome than Stage 1 (Appendix 2 – table 9).

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5. Local Government and Social Care Ombudsman Complaints

- 5.1 The Local Government and Social Care Ombudsman (LGSCO) investigate complaints about councils, adult social care providers, including care homes and agencies, and some other organisations providing local public services. They assess for fault and make findings in relation to maladministration of process and subsequent injustice to the customer. The Council is required by law to cooperate with the Ombudsman's investigations and provide the requested information within given timeframes. The Customer Relations Manager acts as the LGSCO Link Officer and coordinates all communication between the LGSCO and the Council.
- 5.2 Whilst there was a gradual decline in numbers of LGSCO complaints received in 2017-18, the numbers received are increasing again in 2018-19 (Appendix 2 – table 10).
- 5.3 There has however been a decrease in maladministration and injustice findings within 2018-19 compared to 2017-18, which is positive although there has been a significant drop in any findings being made by the LGSCO in quarter 2. Only 18% of the complaints were upheld over the previous reporting year; this compares to 33% across the first half of 2018-19 and may suggest a worrying upward trend. This is however not a high number and reflects that while customers do not agree with the Council's decisions, scrutiny by the Ombudsman shows that we are generally following due policy and process (Appendix 2 – table 11).
- 5.4 The Council has mostly maintained an excellent response rate to the LGSCO throughout the reporting year to date, although there were some delays in services providing the relevant information which caused delays in some cases (Appendix 2 – table 12).
- 5.5 All LGSCO final decisions can be viewed on the LGSCO website – www.lgo.org.uk
- 5.6 The Council has been required to pay financial remedies totalling £1,150 to complainants as a result of recommendations made by the Ombudsman in the reporting year to date (Appendix 3).

6. Compliments

- 6.1 Capturing compliments is important for the Council, as they serve to acknowledge provision of excellent service, enable staff to be recognised and the Council to build upon good practice.
- 6.2 It should be noted that the Customer Relations Team is unable to report on compliments that are not shared with us and therefore this is only likely to be a partial picture. Compliments experienced an increase over the previous reporting year, however this has unfortunately dropped off again in 2018-19 (Appendix 2 – graph 1).

7. MP Enquiries

- 7.1 The number of MP Enquiries received in quarter 2 2018-19 showed a decrease compared to the previous quarter (Appendix 2 – graph 2).
- 7.2 Several service areas experienced a decrease in their MP Enquiry response performance in quarter 2 compared to quarter 1, although DTBS maintained a 100% response rate and Highways, Infrastructure Development & Waste showed an improvement between quarters (Appendix 2 – table 13).
- 7.3 There is however a need for improvement in response times to MP Enquiries for the majority of services.

8. Representations

- 8.1 A representation is a comment or concern that is not intended or eligible to be a formal complaint but requires a formal response.
- 8.2 The Council continues to see a significantly lower number of representations received than in previous years, and the lowest number of representations received in the last 2.5 years was recorded in quarter 2 2018-19. This is likely to be partially attributable to Highways managing their own representations rather than Customer Relations handling or logging them in any way. This information is therefore unlikely to give the full picture of all levels of representations being received within the Council (Appendix 2 – graph 3).
- 8.3 Several services achieved a high response rate to Representations in quarter 2, or made improvements from quarter 1, although some improvements are required. (Appendix 2 – table 14).

Helen Wyatt
Customer Relations Manager

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Appendix 1

Table 1

ACTIVITY TYPE	Year 2018-19					
	Qtr 1 17-18	Qtr 2 17-18	Qtr 3 17-18	Qtr 4 17-18	YTD 17-18	% activity in year
Stage 1 complaints	411	352			763	19%
Stage 2 complaints	57	48			105	3%
Stage 3 complaints	1	0			1	0%
LGO Complaints	17	20			37	1%
Compliments	260	257			517	13%
MP Letters	189	153			342	9%
Representations	77	51			128	3%
TOTAL	1012	881	0	0	1893	
% overall activity	26%	22%	0%	0%		

Table 2

	Q1				Q2				Q3				Q4				17-18 YTD			
	Complaints	Compliments	Representations	MP Enquiries	Complaints	Compliments	Representations	MP Enquiries	Complaints	Compliments	Representations	MP Enquiries	Complaints	Compliments	Representations	MP Enquiries	Complaints	Compliments	Representations	MP Enquiries
Children's Services	102	28	11	42	93	32	5	30								195	60	16	72	
Adult Care & Health	45	115	39	17	62	103	19	19								107	218	58	36	
Communities, PH, Environment and Prosperity	26	12	10	14	24	6	16	33								50	18	26	47	
Highways, Infrastructure Development and Waste	290	87	10	103	228	85	9	69								518	172	19	172	
Legal, Communications, and Human Resources	5	12	2	2	8	30	1	1								13	42	3	3	
Devon Finance Services	0	0	0	1	0	0	0	0								0	0	0	1	
Digital Transformation & Business Support	18	6	5	10	5	1	1	1								23	7	6	11	
Total	486	260	77	189	420	257	51	153	0	0	0	0	0	0	0	906	517	128	342	

Appendix 2

Table 3

Stage 1 complaints received 2018-19					
Service Area	Q1	Q2	Q3	Q4	YTD
Children's Services	80	73			153
Adult Care & Health	37	55			92
Communities, Public Health, Environment and Prosperity	26	20			46
Highways, Infrastructure Development and Waste	246	194			440
Legal, Communications, and Human Resources	5	6			11
Devon Finance Services	0	0			0
Digital Transformation & Business Support	17	4			21
All services	411	352			763

Table 4

Stage 1 responses - % within 20 working days 2018-19			
Department	Q1	Q2	Total
Children's Services	65% (51/79)	64% (47/74)	64% (98/153)
Adult Social Care	69% (25/36)	72% (28/39)	71% (53/75)
CoPHEP	100% (24/24)	91% (21/23)	96% (45/47)
County Solicitors	50% (2/4)	60% (3/5)	56% (5/9)
Digital Transformation & Business Support	80% (12/15)	82% (9/11)	81% (21/26)
Highways, Infrastructure Development & Waste	81% (216/266)	82% (166/203)	81% (382/469)
Finance Services	n/a (0/0)	100% (1/1)	100% (1/1)
Total	78% (330/424)	77% (275/356)	78% (605/780)

Table 5

Stage 1 Outcome 2018-19	Q1	Q2	Total
No Finding	94	70	164
No response at Stage 1	3	7	10
Not upheld	208	188	396
Partly upheld	84	66	150
Resolved upon receipt	3	2	5
Upheld	32	23	55
Total	424	356	780

Table 6

Most common complaint issues & % upheld 2018-19		
Q1	Delay in providing service	16%
	Attitude/rudeness/inappropriate comments	39%
	Quality of service provided	44%
Q2	Delay in providing service	19%
	Inappropriate action or service	31%
	Quality of service provided	24%

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Table 7

Stage 2 complaints received 2018-19					
Service Area	Q1	Q2	Q3	Q4	YTD
Children's Services	14	19			33
Adult Care & Health	0	0			0
Communities, Public Health, Environment and Prosperity	0	0			0
Highways, Infrastructure Development and Waste	42	30			72
Legal, Communications, and Human Resources	0	2			2
Devon Finance Services	0	0			0
Digital Transformation & Business Support	1	1			2
All services	57	52			109

Table 8

Stage 2 complaint responses - % in time 2018-19					
Service Area	Q1	Q2	Q3	Q4	YTD
Children's Services	0%	33%			22%
Adult Care & Health	n/a	n/a			n/a
Communities, Public Health, Environment and Prosperity	n/a	n/a			n/a
Highways, Infrastructure Development and Waste	60%	83%			76%
Legal, Communications, and Human Resources	n/a	n/a			n/a
Devon Finance Services	n/a	n/a			n/a
Digital Transformation & Business Support	n/a	n/a			n/a
Total	40%	71%			61%

Table 9

Stage 2 complaint outcomes - % upheld or partially upheld 2018-19					
Service Area	Q1	Q2	Q3	Q4	YTD
Children's Services	20%	80%			50%
Adult Care & Health	n/a	n/a			n/a
Communities, PH, Environment and Prosperity	n/a	n/a			n/a
Highways, Infrastructure Development and Waste	13%	42%			34%
Legal, Communications, and Human Resources	n/a	n/a			n/a
Devon Finance Services	n/a	n/a			n/a
Digital Transformation & Business Support	n/a	100%			100%
Total	15%	50%			40%

Table 10

LGSCO complaints received 2018-19					
Service Area	Q1	Q2	Q3	Q4	YTD
Children's Services	6	5			11
Adult Care & Health	8	7			15
Communities, Public Health, Environment and Prosperity	0	2			2
Highways, Infrastructure Development and Waste	2	6			8
Legal, Communications, and Human Resources	0	0			0
Devon Finance Services	0	0			0
Digital Transformation & Business Support	0	0			0
All services	16	20			36

Table 11

LGSCO outcome 2018-19	Q1	Q2	Q3	Q4	YTD
Upheld - maladministration & injustice	3	2			5
Upheld - maladministration No Injustice	1	0			1
Not Upheld - No Further Action	2	1			3
Not Upheld - No Maladministration	3	1			4
Closed after initial enquiries - no further action	3	1			4
Closed after initial enquiries - out of jurisdiction	0	0			0
Premature	0	1			1
Total	12	6	0	0	18

Table 12

LGSCO complaint responses - % in time 2018-19					
Service Area	Q1	Q2	Q3	Q4	YTD
Children's Services	100%	88%			91%
Adult Care & Health	100%	100%			100%
Communities, Public Health, Environment and Prosperity	n/a	100%			100%
Highways, Infrastructure Development and Waste	100%	67%			75%
Legal, Communications, and Human Resources	n/a	n/a			n/a
Devon Finance Services	n/a	n/a			n/a
Digital Transformation & Business Support	100%	100%			100%
Total	100%	91%			95%

Table 13

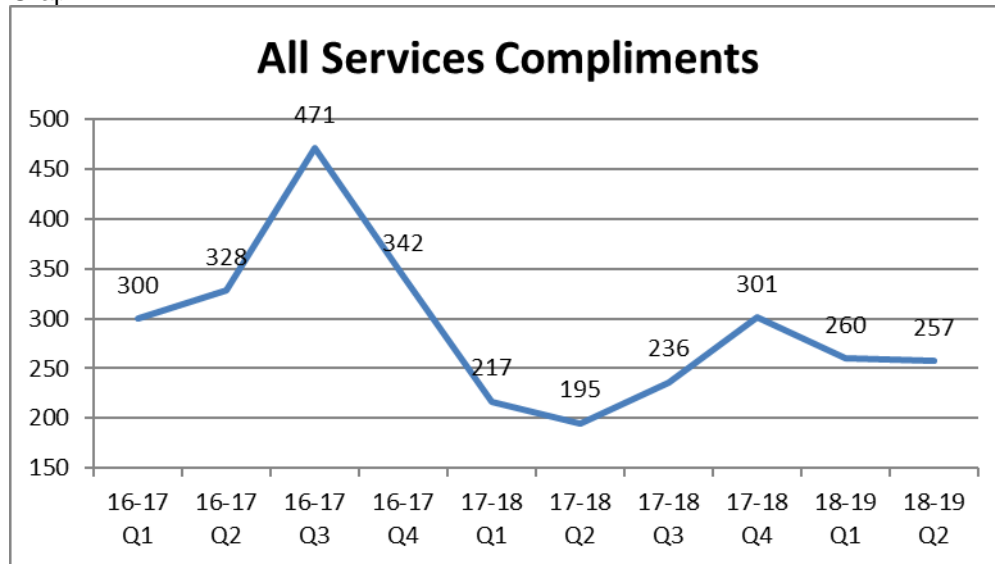
MP Enquiry responses - % within 20 working days 2018-19			
Department	Q1	Q2	Total
Children's Services	84% (32/38)	75% (33/44)	79% (65/82)
Adult Social Care	93% (27/29)	75% (15/20)	86% (42/49)
CoPHEP	96% (23/24)	87% (20/23)	91% (43/47)
County Solicitors	100% (2/2)	0% (0/2)	50% (2/4)
Digital Transformation & Business Support	100% (10/10)	100% (3/3)	100% (13/13)
Highways, Infrastructure Development & Waste	81% (87/108)	88% (68/77)	84% (155/185)
Finance Services	100% (1/1)	n/a (0/0)	100% (1/1)
Total	86% (182/212)	82% (139/169)	84% (321/381)

Table 14

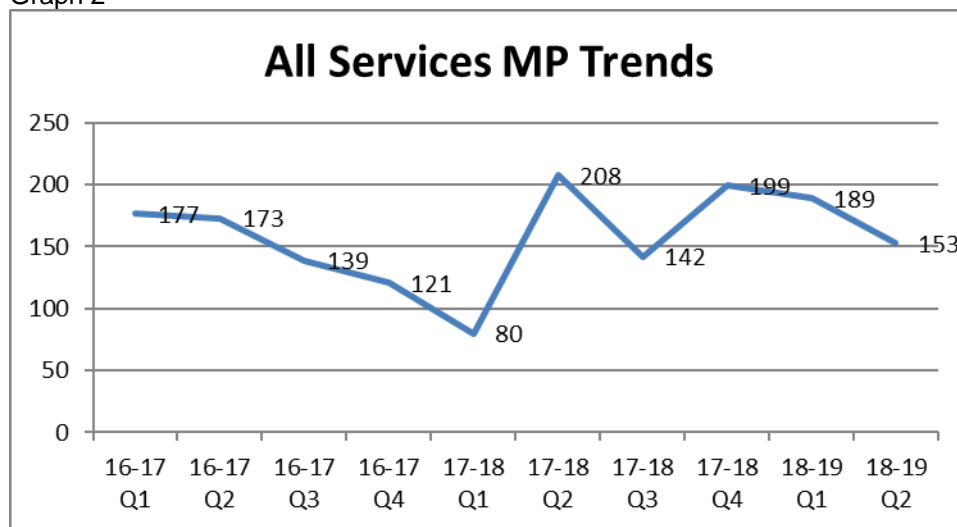
Representation responses - % within 20 working days 2018-19			
Department	Q1	Q2	Total
Children's Services	80% (8/10)	70% (7/10)	75% (15/20)
Adult Social Care	81% (34/42)	68% (17/25)	76% (51/67)
CoPHEP	100% (8/8)	93% (13/14)	95% (21/22)
County Solicitors	0% (0/1)	50% (1/2)	33% (1/3)
Digital Transformation & Business Support	80% (4/5)	100% (1/1)	83% (5/6)
Highways, Infrastructure Development & Waste	78% (7/9)	83% (10/12)	81% (17/21)
Finance Services	n/a (0/0)	n/a (0/0)	n/a (0/0)
Total	81% (61/75)	77% (49/64)	79% (110/139)

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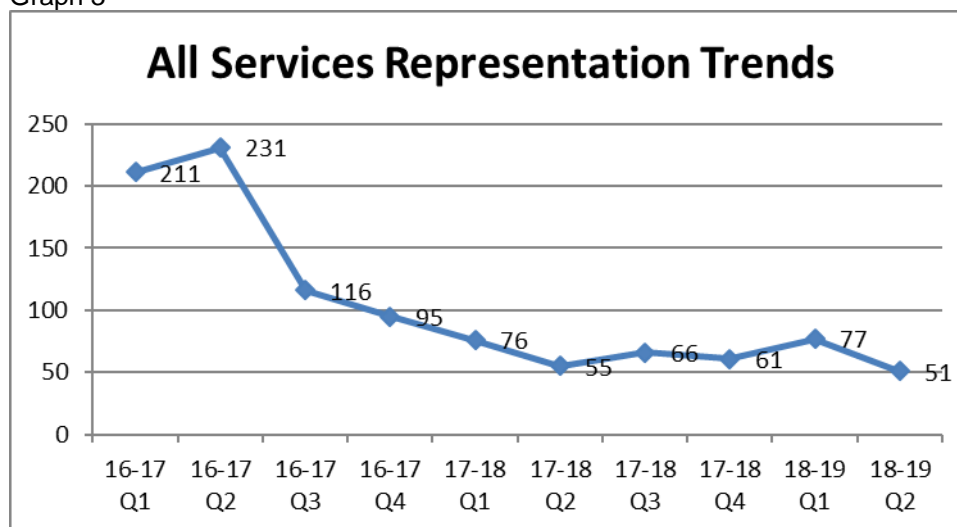
Graph 1



Graph 2



Graph 3



Appendix 3

Local Government and Social Care Ombudsman Recommendations – Q1 & Q2 2018-19

Adult Care and Health:

Quarter 1 2018-19

- The Council should apologise to the complainants for the distress caused by the Nursing Home's poor record keeping, poor quality of the service user's personal hygiene care and the lack of fluids.
- The Council should pay the complainant **£100** to recognise the distress above caused by the Nursing Home
- The Council should review its procedures to ensure that residents fluid and personal hygiene needs, and any action taken, are properly recorded in their respective charts and care plans.
- The Nursing Home should pay the complainant **£100** to recognise the distress caused by the Nursing Home
- The Council should apologise to the complainant for the way in which it imposed the introduction of assistive technology.
- The Council should pay the complainant **£500** in recognition of the distress caused to him during the period of assessment in relation to assistive technology. It will also offer a payment of **£250** to the complainant's parents for their time and trouble in making this complaint.
- To discuss facilitating behaviour management courses with the complainant, and to document the discussion

Quarter 2 2018-19

- The Council should apologise to the complainant and reinstate the respite provision and support package that were agreed in the June 2017 care and support plan

Children's Services:

Quarter 1 2018-19

No recommendations made.

Quarter 2 2018-19

- Apologise to the complainant for not complying with the stage 2 recommendation that it should consider making a small payment for her daughter to pursue her interests to reflect the lack of support it gave her prior to her diagnosis;
- Pay the complainant **£200** for the benefit of her daughter.
- Remind its investigating officers to include their recommendations in one section in their final report to reduce the risk the Council will overlook a recommendation.

Highways, Infrastructure Development, and Waste

Quarter 1 2018-19

No recommendations made.

Quarter 2 2018-19

To allow the complainant to purchase a resident parking permit in his street or a neighbouring street for the duration of the family's occupation of the property.

LOCAL GOVERNMENT & SOCIAL CARE OMBUDSMAN COMPLAINTS ANNUAL REVIEW LETTER and REPORT FOR 2017-18

Joint Report by the Ombudsman Link Officer and the Head of Digital Transformation and Business Support

Recommendations:

- (a) That the complaints made to the Local Government Ombudsman referred to the authority during 2017/18 and their outcomes be noted;
- (b) That the content of the Ombudsman's Annual Review Letter to the Council be noted.

1. Introduction

- 1.1 The intention of the Ombudsman this year is to reassure Councils that the volume of complaints does not, in itself, indicate the quality of performance. High volumes of complaints can be a sign of an open, learning organisation, as well as sometimes being an early warning of wider problems. Low complaint volumes can be a worrying sign that an organisation is not alive to user feedback, rather than always being an indicator that all is well. The Ombudsman is encouraging Council's to use the figures provided as the start of a conversation, rather than an absolute measure of corporate health.
- 1.2 This year, the Ombudsman's focus is on lessons that can be learned from complaints, and improvements that can be achieved through their recommendations.
- 1.3 The Ombudsman encourages councils to share the learning from complaints with scrutiny committees and councillors to assist them in holding the authority to account.

2. Annual Review Letter

2.1 Future development of annual review letters

- 2.1.1 The Ombudsman has moved away from a more simplistic focus on complaint volumes within annual review letters, and instead turning the focus onto lessons that can be learned and wider improvements that can be achieved through recommendations.
- 2.1.2 Devon County Council has volunteered to be involved in the Ombudsman's remedies project, which seeks to improve the way the Ombudsman records and publishes data about remedies. The Ombudsman has expressed his thanks to Devon County Council for volunteering to be involved in the project.
- 2.1.3 As a result of the remedies project, the Ombudsman will be making changes to the format of annual letters and will engage with councils on this in early 2019.

2.2 Supporting local scrutiny

- 2.2.1 The Ombudsman intends that the annual review letters for councils help to ensure learning from complaints informs scrutiny at a local level.
- 2.2.2 The Ombudsman has created a dedicated section of their website which contains information for scrutiny committees and councillors which is available at www.lgo.org.uk/scrutiny. The Ombudsman

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has asked councils to encourage their elected members and scrutiny committees to make use of these resources.

2.3 Learning from complaints to improve services

2.3.1 The Ombudsman shares reports and other resources in order to help councils learn from the issues others have experienced and to avoid them making the same mistakes.

2.3.2 In the last year, the Ombudsman has seen examples of councils adopting a positive attitude towards complaints and working constructively with the Ombudsman to remedy injustices, and take on board learning. The Ombudsman is at pains to emphasise the importance of a culture that demonstrates learning from complaints and subsequent improvement to services as it can benefit everyone.

2.4 Complaint handling training

2.4.1 The Ombudsman has highlighted their well-established and successful training programme supporting local authorities and care providers to help improve local complaint handling. This training is available to any service with Devon County Council who may wish to host a session. Further details can be found at www.lgo.org.uk/training

2.4.2 The Ombudsman has also set up a network of council link officers to promote and share best practice in complaint handling.

3. Ombudsman Report for Devon County Council in 17/18

3.1 Complaints Received

3.1.1 The number of complaints received by the Ombudsman in the last three years is shown below:

Year	Complaints
2017/2018	102
2016/2017	118
2015/2016	148

3.1.2 In his Annual Letter to Councils, the Ombudsman has cautioned that lower volumes of complaints may be an indication that Councils are not “alive to user feedback”. Devon County Council has seen a continual reduction in numbers of complaints received by the Ombudsman over the last 3 years. There were 98 complaints decided on by the Ombudsman in the same period, with only 17 (17%) of those being upheld. This is a lower percentage than the previous year, where 21% were upheld.

3.1.3 In addition, it should be noted that the statistics in the annual letter comprise data the Ombudsman holds, and may not necessarily align with the data the council holds. For example, Ombudsman numbers include enquiries from people they signpost back to the council, but who may never contact us.

3.1.4 The 102 complaints received by the Ombudsman about Devon County Council in 2017/18 were split across services as follows (note these are LGSCO designated service categories):

Service	Number of Complaints (% of total)	
	2016/17	2017/18
Adult Care Services	34 (29%)	38 (37%)
Corporate & Other Services	2 (2%)	2 (2%)
Education & Children's Services	47 (40%)	36 (35%)
Environmental Services	3 (2.5%)	4 (4%)
Highways & Transport	28 (23.5%)	21 (21%)
Planning & Development	3 (2.5%)	1 (1%)
Other	1 (0.5%)	0 (0%)

3.1.5 As Adult Care Services, Education & Children's Services and Highways & Transport are the largest Service areas and the services that the Council receives most complaints about, it is expected that these would be the services that the Ombudsman receives most complaints about.

3.1.6 While there has been an overall decrease in numbers of complaints received by the Ombudsman in 2017/18, Adult Care Services experienced a slight increase in complaints received.

3.2 Ombudsman Complaint Decisions in 17/18

3.2.1 A summary of all decisions is below with the comparison from 16/17 for information

	Number of Complaints Upheld (% of total)	
	2016/17	2017/18
Investigated – Upheld	25 (22%)	17 (17%)
Investigated – Not Upheld	13 (11%)	15 (15%)
Closed after initial enquiries	41 (35%)	31 (32%)
Incomplete / Invalid	9 (8%)	2 (2%)
Referred back for local resolution	28 (24%)	34 (34%)

3.2.2 Of the 98 Devon County Council complaints the Ombudsman made decisions on in 2017/18, 32 were progressed to a full investigation and of these 17 were upheld; this represents a 53% uphold rate for complaints that progressed to full investigation.

3.2.3 Of those 17 complaints that were investigated and upheld there were 13 where the Ombudsman felt that the fault caused an injustice and recommended a remedy to which the council agreed.

3.2.4 The table at **Appendix A** provides details of the 13 upheld with injustice decisions and the required actions by the council.

3.2.5 The decision of "Upheld" is applied when the Ombudsman finds there is some fault in the way the council acted. This is termed "Maladministration". This finding will be made even if it has agreed to put things right during the course of the Ombudsman investigation or if the council had already accepted it needed to remedy the situation before the complaint was apparent to the Ombudsman.

3.2.6 The actions required of the Council by the Ombudsman are included within Appendix A. It should be noted that this included financial redress in 7 complaints, totalling £4,453.40.

3.2.7 Whilst it is not particularly helpful to compare the complaint statistics of other local authorities against our own, as the Ombudsman report does not give any detail of the subject of the complaint or of what

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was wrong, a breakdown of complaints received by service type and of the decisions made by the Ombudsman for Devon and its' CIPFA comparators is attached at **Appendix B** for reference.

3.2.8 It is worth noting that Devon's improved position in relation to its' comparator Local Authorities has been maintained over the last year and reflects the change in culture within the council in regard to how complaints are now more positively handled and seen as a tool from which the council can learn and improve.

4. Future Developments for Devon County Council

4.1 Although the Council continues to be faced with financial constraints that necessitate tough decisions around service provision, the expectation of customers does not reduce in line with these challenges. Indeed, customers feel more empowered to hold the Council to account, and therefore it is envisaged that more customers will escalate their dissatisfaction beyond the Council's own complaint procedure to the Ombudsman. Even as the Council becomes more of an enabling authority and commissioning many services, it remains entirely accountable for those services, however much day-to-day control it delegates to providers.

4.2 It is acknowledged that complaints to the Ombudsman do not always mean the Council has done anything wrong, as is borne out by the decisions made by the Ombudsman. Often these complaints arise because the customer would have liked something more, or better, or a different outcome from the council in reply to their complaint. It is unlikely that public expectations of services will diminish in the short term and therefore there is no reason to suppose that complaints will fall significantly. Despite these challenges the Customer Relations Manager continues to ensure that capacity to respond to the Ombudsman within requested deadlines is maintained.

4.3 It remains the case that the council does not receive significant criticism from the Ombudsman and therefore we should continue to deliver services within our own policy and procedure guidelines, as well as within statutory requirements.

4.4 Most importantly, as in previous years, the council should take even greater measures to ensure that it is able to evidence that it is a council that learns from complaints and uses this learning to improve and maintain the quality of the services it commissions and provides. Furthermore, the council may wish to consider the role of Members / Scrutiny in this area as recommended by the Ombudsman in his latest letter.

Helen Wyatt
LGSCO Link Officer
Customer Relations Manager

Rob Parkhouse
Head of Digital Transformation & Business Support

[Electoral Divisions: All]

Contact for Enquiries: Helen Wyatt
Tel No: 01392 383000 Room: 120 County Hall

<u>Background Paper</u>	<u>Date</u>	<u>File Reference</u>
Nil		

APPENDIX A – UPHELD OMBUDSMAN COMPLAINTS 17/18

LGO Ref	Category	Decision	Action required of Council
16003653	Education & Children’s Services	Upheld: maladministration & injustice	<ul style="list-style-type: none"> a. Ensure there is a comprehensive and updated risk assessment/safety plan for Child A which takes account of his current needs and educational provision b. pay £750 per annum for three years from 2014 to 2016 to recognise the loss of opportunity and uncertainty about what services would have been provided for Child A if there had been more timely assessments and interventions in that period. This should be paid into Child A’s personal budget as an additional payment so it is used for his benefit. c. reimburse Mrs X the £450 she spent on a private (BIBIC) assessment of Child A’s social communication, interactions and sensory processing difficulties. The Single Assessment in June 2015 recommended Child A should receive an assessment in this area so it is reasonable for Mrs X to be reimbursed for this expense; d. the Council should pay Mrs X £5,000 to recognise the overall impact its failings had on Mrs X and her family – this includes a payment for distress and recognition that Mrs X had to provide constant supervision for Child A due to the requirements set out in the Sexual Behaviour Safety Plan and the lack of support or respite arranged by the Council. This took a considerable amount of Mrs X’s time every day and had a significant impact on her quality of life and the time she had available for her other children; e. contact Mrs X’s eldest daughter, who is now an adult, to ask whether she would like the Council to assess any unmet social care needs she may have and assess whether she meets the eligibility criteria for adult social care services; f. send Mrs X a copy of all the amended case records and reports g. A copy of the final LGO decision statement to be placed in each child’s social care case records; h. put in place a procedure to monitor the implementation of agreed recommendations from Stage Two investigations

			and Complaint Review Panels to ensure there are no undue delays or oversights
16012704	Education & Children's Services	Upheld: maladministration & injustice	<ul style="list-style-type: none"> a) Apologising for the quality of information and recording keeping during the assessment b) Continue to review its guidance to ensure it reflects Government guidance allowing it to carry out the two stages of assessment at the same time c) Paying within six weeks of this decision £500 to Mr and Mrs X (including the £300 already offered).
16018208	Education & Children's Services	Upheld: maladministration & injustice	<ul style="list-style-type: none"> a) the Council should apologise to Mrs B for not properly explaining the process to her so she understood the Council's duty and what that involved as well as for failing to properly consider contacting the father of two of her children before interviewing them b) to include in its safeguarding training a reminder to officers to consider contacting the biological parent for permission to speak to the children where that parent is not involved in the day-to-day parenting of the children and is not part of the allegation c) where it is decided not to contact parents before interviewing children the Council will ensure the reasons for that are recorded d) where a child to be interviewed has learning difficulties the Council will consider whether that means an adult should accompany the child. The Council will keep a written record of its consideration of that point.
16011798	Education & Children's Services	Upheld: maladministration & injustice	<ul style="list-style-type: none"> a) Apologise for the fault identified in this statement b) Pay Mr E £300 to reflect the time and trouble he was put to identifying the central point of contact and in finding the Council's policy on children out of school. A further £100 for his distress in the Council failing to consider his wish for F to be educated outside the home and £200 for the uncertainty of not c) knowing whether F could have had more contact with his peers. I note the Council has not yet made the payment of £400 to reflect the delay in its complaints handling; it should make this a payment of £500 to reflect its delay in dealing with the third complaint. These payments should be made within three months of my decision.

			<p>d) Pay F £1,600 to reflect him receiving insufficient amounts of education until he was electively home educated. This payment should also be made within three months of my decision.</p> <p>For the Council to consider amending its procedures to:</p> <p>a) Check with schools that the people employed to support individual children with special educational needs, are appropriately trained;</p> <p>b) Consider recommendations made in statutory guidance are acted upon as soon as possible or to explain why practice is not being changed;</p> <p>c) Receive reports about children educated out of school to check they are receiving the full amount of education to which they are entitled.</p> <p>d) Consider parental wishes when arranging alternative provision. Even if those wishes cannot be met, the Council should explain why.</p> <p>e) Ensure procedures are robust enough to ensure the Council obtains documents promptly and sends out decision letters and drafts as soon as possible.</p> <p>f) Ensure LADOs are appropriately trained to enable them to fulfil this role.</p> <p>g) Ensure its complaints procedure is robust enough so that deadlines are adhered to.</p>
16016426	Adult Care Services	Upheld: maladministration & injustice	Apology
16008838	Adult Care Services	Upheld: maladministration & injustice	<p>a. Apologise to Ms D for the inadequate care provided on its behalf by E Care Home for her sister, Ms C.</p> <p>b. Consider how the Council might routinely monitor the quality of care it arranges for vulnerable adults, and particularly the records of care needed and delivered</p> <p>c. Council how the Council might identify people who would benefit from a 'case conference' to bring together people involved in their care and arrange the necessary meetings</p>
16011654	Adult Care Services (joint with DPT)	Upheld: maladministration & injustice	<p>a) Give Mr B an unreserved apology for the failings identified by this investigation and the injustice caused as a result. Pay Mr B £500 in recognition of his distress and time and trouble.</p>

			<p>b) Commission a review of Mr B’s care needs in line with the statutory Care and Support Guidance and Care Act 2014. If that review finds Mr B has needs which qualify for support the integrated service will meet then that service will set a new personal budget and consider the case for reinstating direct payments. It will also provide Mr B with a new support plan. All organisations will use their best efforts to ensure any review completes within three months of a decision on this complaint</p> <p>Also, provide written assurance about:</p> <p>a. The training all members of the integrated service have received (or will receive) on the requirements of the Care Act 2014 and relevant local and Council policy. In particular providing reassurance this has covered the centrality of support planning to any decision on direct payments and reviewing those payments.</p> <p>b. What audit the integrated service has carried out (or intends to carry out) of those who receive direct payments following this complaint. The service should review all cases where clients receive direct payments to check they have support plans which set out what items and services the direct payments cover and how these should meet care needs. In any cases where the service identifies gaps in this information it should prioritise a review.</p> <p>c. to also review its complaint handling in this case. It will ensure that investigating officers are fully aware of the duty of candour and comply with that. It reflects poorly on the service that it identified some of the failings identified in this investigation yet did not share that with Mr B nor offer a proper apology for that. Yet this is exactly what the duty of candour should redress. It will reflect on why therefore this did not happen in this case and write to us with its findings alongside the information agreed at 47 above.</p>
17004135	Adult Care Services	Upheld: maladministration & injustice	<p>a) Apologise to Mr K for the poor communication throughout the safeguarding investigation which has caused him distress, time, trouble and frustration</p>

			b) Review council's procedures around communication with care homes in safeguarding investigations to ensure that it does not miss details of allegations
17006412	Adult Care Services	Upheld: maladministration & injustice	In recognition of the distress caused to Mrs M by the long delay in reviewing her daughter's assessment & DP the Council should pay £200
17008539	Adult Care Services	Upheld: maladministration & injustice	a) Make a payment to Ms C of £53.40 for the staff meals b) Council to remind the provider of the importance of record keeping as it could not provide a copy of the actual agreement signed by the complainant or a copy of the meal contribution policy before 2015 c) Council to remind provider of the need to address complaints and keep evidence of having done so. Provider must give reasons to complainants for why it will not respond to any complaint if it considers it has already responded to it.
16012529	Highways & Transport	Upheld: maladministration & injustice	The Council agreed to provide an advisory disabled parking bay.
16015611	Highways & Transport	Upheld: maladministration & injustice	a) apologise to Mr S for the way it handled his complaint b) review its list of properties that are eligible to apply for parking permits and bring it into line with current planning decisions and the Local Plan. c) asks prospective buyers to check the documents accompanying planning permissions and make appropriate enquiries where there is uncertainty.
17009755	Environmental Services	Upheld: maladministration & injustice	a) Issue Mr D with a formal written apology & inform Council to pay £500 b) Continue to progress the drainage matter & provide regular updates to Mr D

APPENDIX B – CIPFA Comparators Complaints received and decisions by LGSCO

COMPLAINTS RECEIVED BY THE OMBUDSMAN 17/18

COUNCIL	Adult Care Services	Corporate & Other Services	Education & Children's Services	Environmental Services & Public Protection	Highways & Transport	Planning & Development	TOTAL
Cambridgeshire	14	1	13	1	8	2	39
Worcestershire	21	1	21	2	6	0	51
Cumbria	12	5	30	4	12	1	64
Dorset	28	2	39	2	3	0	65
North Yorkshire	31	3	22	1	7	1	65
Gloucestershire	26	2	19	1	16	2	66
Leicestershire	20	3	30	4	9	2	68
Warwickshire	30	2	31	1	5	0	69
Lincolnshire	33	2	22	0	7	9	73
Somerset	34	5	27	1	11	2	80
East Sussex	48	1	35	0	10	1	95
West Sussex	39	7	36	1	13	2	98
Devon	38	2	36	4	21	1	102
Hampshire	39	11	61	0	11	2	124
Norfolk	58	4	53	1	9	0	125
Essex	70	2	73	6	38	1	190

Notes:

- This table is structured based on the total number of complaints received by the Ombudsman by Council and as such not too much attention should be paid to the position of Devon in relation to others. Everyone is entitled to refer their complaint to the Ombudsman and the table that follows which provides detail of decisions by the Ombudsman indicates that Devon has the 4th highest number of complaints

where the Ombudsman decides to close after an initial enquiry i.e. there is no fault by the council and no investigation required by the Ombudsman.

- The main point to note is that Devon does not have a significantly higher number of complaints in any single service area than any other council, especially given the high proportion of elderly people living in Devon and the significantly high number of highway miles within the county.

DECISIONS MADE BY THE OMBUDSMAN 17/18

COUNCIL	Incomplete / invalid	Advice Given	Referred back for local resolution	Closed after initial enquiry	Detailed investigation carried out		% Upheld of those investigated	Total
					Not Upheld	Upheld		
Worcestershire	1	1	20	12	3	11	79%	48
Norfolk	5	1	43	26	11	33	75%	119
North Yorkshire	3	0	15	28	8	19	70%	73
Cambridgeshire	0	1	15	15	3	5	63%	39
Somerset	4	1	42	11	7	12	63%	77
Lincolnshire	1	0	37	17	7	11	61%	73
Essex	9	0	61	55	25	35	58%	185
Cumbria	1	0	25	13	9	11	55%	59
Devon	2	0	33	31	15	17	53%	98
Hampshire	11	0	53	33	10	11	52%	118
Leicestershire	1	1	24	25	5	5	50%	61
Gloucestershire	6	0	23	19	8	8	50%	64
Dorset	5	0	21	14	9	8	47%	57
East Sussex	8	0	25	20	19	16	46%	88
West Sussex	4	0	23	34	15	12	44%	88
Warwickshire	2	0	31	12	15	11	42%	71

Note:

- This table is structured based on the percentage of complaints fully investigated that are upheld. Given that Devon has one of the highest numbers of complaints referred to the Ombudsman (which is not a reflection on performance in itself) it follows that a higher number will be investigated.
- Although 53% of the complaints investigated are upheld, the actual number of upheld complaints is relatively low as a percentage of actual decisions made (15 upheld complaints out of 98 decisions is 15%)
- Devon is also ranked 4th highest for complaints being referred back for local resolution; this is a positive indication that the council is open to rectifying any identified errors at an early point in time. This maintains the same position as the previous 2 years.

18 July 2018

By email

Phil Norrey
Chief Executive
Devon County Council

Dear Phil Norrey,

Annual Review letter 2018

I write to you with our annual summary of statistics on the complaints made to the Local Government and Social Care Ombudsman (LGSCO) about your authority for the year ended 31 March 2018. The enclosed tables present the number of complaints and enquiries received about your authority and the decisions we made during the period. I hope this information will prove helpful in assessing your authority's performance in handling complaints.

Complaint statistics

In providing these statistics, I would stress that the volume of complaints does not, in itself, indicate the quality of the council's performance. High volumes of complaints can be a sign of an open, learning organisation, as well as sometimes being an early warning of wider problems. Low complaint volumes can be a worrying sign that an organisation is not alive to user feedback, rather than always being an indicator that all is well. So, I would encourage you to use these figures as the start of a conversation, rather than an absolute measure of corporate health. One of the most significant statistics attached is the number of upheld complaints. This shows how frequently we find fault with the council when we investigate. Equally importantly, we also give a figure for the number of cases where we decided your authority had offered a satisfactory remedy during the local complaints process. Both figures provide important insights.

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

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

Future development of annual review letters

Last year, we highlighted our plans to move away from a simplistic focus on complaint volumes and instead turn focus onto the lessons that can be learned and the wider

improvements we can achieve through our recommendations to improve services for the many. We have produced a new [corporate strategy](#) for 2018-21 which commits us to more comprehensively publish information about the outcomes of our investigations and the occasions our recommendations result in improvements to local services.

I would like to take this opportunity to express my thanks for your Council volunteering to be involved with this project which seeks to improve the way we record and publish data about remedies. This is an important area of our work, which will help highlight the positive impact complaints can have on improving the way public services are delivered. We very much appreciate the time you have offered to help make this project a success. We will also be making changes to the format of our annual letters as a result and will be engaging with councils on this early next year.

Supporting local scrutiny

One of the purposes of our annual letters to councils is to help ensure learning from complaints informs scrutiny at the local level. Sharing the learning from our investigations and supporting the democratic scrutiny of public services continues to be one of our key priorities. We have created a dedicated section of our website which contains a host of information to help scrutiny committees and councillors to hold their authority to account – complaints data, decision statements, public interest reports, focus reports and scrutiny questions. This can be found at www.lgo.org.uk/scrutiny. I would be grateful if you could encourage your elected members and scrutiny committees to make use of these resources.

Learning from complaints to improve services

We share the issues we see in our investigations to help councils learn from the issues others have experienced and avoid making the same mistakes. We do this through the [reports](#) and other resources we publish. Over the last year, we have seen examples of councils adopting a positive attitude towards complaints and working constructively with us to remedy injustices and take on board the learning from our cases. In one great example, a county council has seized the opportunity to entirely redesign how its occupational therapists work with all of its districts, to improve partnership working and increase transparency for the public. This originated from a single complaint. This is the sort of culture we all benefit from – one that takes the learning from complaints and uses it to improve services.

Complaint handling training

We have a well-established and successful training programme supporting local authorities and independent care providers to help improve local complaint handling. In 2017-18 we delivered 58 courses, training more than 800 people. We also set up a network of council link officers to promote and share best practice in complaint handling, and hosted a series of seminars for that group. To find out more visit www.lgo.org.uk/training.

Yours sincerely,



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

Local Authority Report: Devon County Council
For the Period Ending: 31/03/2018

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

Complaints and enquiries received

Adult Care Services	Benefits and Tax	Corporate and Other Services	Education and Children's Services	Environment Services	Highways and Transport	Housing	Planning and Development	Other	Total
38	0	2	36	4	21	0	1	0	102

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Decisions made

Decisions made				Detailed Investigations			
Incomplete or Invalid	Advice Given	Referred back for Local Resolution	Closed After Initial Enquiries	Not Upheld	Upheld	Uphold Rate	Total
2	0	33	31	15	17	53%	98

Notes

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

Complaints Remedied

by LGO	Satisfactorily by Authority before LGO Involvement
13	1

ETHICAL GOVERNANCE FRAMEWORK MONITORING

Report of the County Solicitor

Recommendation: that the report be noted.

1. The Standards Committee agreed previously that the independent, co-opted, members of the Committee should attend meetings of the Council, the Cabinet and Committees on an ad-hoc basis to observe and monitor compliance with the Council's ethical governance framework, in line with the agreed protocol.
2. Members have, since the report to the previous meeting, attended the following meetings and their views/feedback are summarised below.

Meeting		Co-opted Member/Observer
Health & Wellbeing Board	8 March	Mrs Saltmarsh
Children's Scrutiny	20 March	Mr Hodgins
Development Management	21 March	Mr Hipkin
South Hams Highways HATOC	20 April	Mrs Mayes
Farms	15 May	Sir Simon Day
Cabinet	16 May	Mr Hipkin
County Council	24 May	Mr Hodgins
Health & Adult Care Scrutiny	7 June	Mrs Saltmarsh
Devon Audit Partnership	20 June	Mr Hipkin
Cabinet @ 10.30am	11 July	Mrs Mayes
East Devon Highways (HATOC)	12 July	Mr Hodgins
Procedures	10 September	Mr Hipkin
Development Management	19 September	Mr Hipkin
Health & Adult Care Scrutiny	20 September	Mr Hodgins
Corporate, Infrastructure & Regulatory Services Scrutiny	25 September	Mrs Mayes
County Council	4 October	Mrs Mayes
Member Development Steering group	17 October	Mrs Saltmarsh
Mid Devon Highways (HATOC)	29 October	Mr Hodgins

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3. The following table summarises feedback received from Members on a number of general issues common to all meetings.

Observations:	1 = Very Poor and 5 = Very Good				
	1	2	3	4	5
Punctuality and Attendance of Members				✓✓✓✓✓	✓✓✓✓✓✓✓✓✓✓✓✓✓✓✓✓
Appearance and presentation				✓✓	✓✓✓✓✓✓✓✓✓✓✓✓✓✓✓✓✓✓
Speeches: clear, relevant, understandable, audio levels, use of microphones etc.,		✓		✓✓✓	✓✓✓✓✓✓✓✓✓✓✓✓✓✓✓✓
Use of appropriate language				✓✓	✓✓✓✓✓✓✓✓✓✓✓✓✓✓✓✓✓✓
Members' Conduct & Behaviour			✓	✓✓	✓✓✓✓✓✓✓✓✓✓✓✓✓✓✓✓✓✓
Clear identification and declaration of interests (<i>where so declared</i>)					✓✓✓✓✓✓✓✓
Effective Chairmanship/conduct of meeting				✓✓	✓✓✓✓✓✓✓✓✓✓✓✓✓✓✓✓✓✓
Adherence to Agenda					✓✓✓✓✓✓✓✓✓✓✓✓✓✓✓✓✓✓✓✓✓✓
Listening and responding to advice (from Officers)				✓✓✓	✓✓✓✓✓✓✓✓✓✓✓✓✓✓✓✓✓✓

4. While there were a number of other issues raised by co-opted members in their observations, as set out below, there were no reports of any specific actions or behaviors that might be felt to have resulted in a potential breach of the Code or warranted further action

5. Specific observations by the independent co- opted members were:
- That the slides of the meeting agenda were useful and photographs/maps particularly appropriate in the context of the issues being discussed at the meeting;
 - The documentation issued prior to the meeting was most comprehensive;
 - The meeting was very well chaired;
 - Officers talking at the rear of the room made it hard to hear proceedings;
 - A fairly small meeting attended by several members of the public who were adversely affected by two items on the agenda. They were given ample opportunity to speak and contribute which they did in a very helpful way. It was just the right approach to adopt and they left as happy as could be expected;

Agenda Item 6

- the meeting was professionally conducted;
- there were a number of pertinent questions relating to a variety of topics, indicating engagement by members of the committee;
- the presentation on the Counter Fraud Service appeared to be well received;
- meeting appeared to be well attended;
- Public Health Annual Report.... was a lengthy item, taking a considerable amount of time, but contributions were responded to in a structured way;
- Chair reminded people to be concise and to be careful of their language;
- For the most part contributions were relevant and succinct;
- The number of members speaking meant that the meeting became very long (not that this is a criticism)
- Initial problems with the camera delayed the start;
- With windows open and the flight path for the airport, meeting was noisy at times;
- One Member's phone rang;
- One statement from a non-Cabinet Member overran quite considerably;
- A Member left the meeting to speak to the press;
- The meeting was very well chaired. The subtle, appropriate humour enhances a meeting of this nature;
- Extraneous noise coming in through doors (open doors as very warm). But dealt with appropriately;
- Meeting was well chaired. Members had ample opportunity to seek clarification on issues raised;
- The meeting, which could potentially have raised some contested issues, was very well chaired;
- While the slides were useful and informative, not all were easily visible or legible because of the lighting in the room (or the projector);
- Several of those who went in and out were a bit noisy closing the door;
- The mics were extremely troublesome, only about half appeared to be working and it looked inefficient;
- It was quite cold in Daw;
- Seemed to be a lot of statements rather than questions. Several amendments were put, not sure it was always clear exactly what the final wording was;
- A mobile rang quite loudly during the meeting and that Councillor left the room for some time;
- Some use of forenames by Chair early in the meeting, but used surnames from then on;
- No introduction of the Standards Member attending;
- Room was very cold (Members went out to get coats);
- Some clapping on political points;
- One phone call in meeting and text message notifications coming through;
- Were some moves to circumvent procedures;
- All the microphones worked!;
- Poor attendance, but dates had been changed;
- Good presentation on the rollout of Office 365; including using screens for good visuals;
- Helpful paperwork;
- As the meeting operated quite informally, Members were able to ask questions and examine many issues;
- Contributions by the Officers at the meeting were helpful; and
- Forenames used frequently in the meeting (HATOC).

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6. This Report has no specific equality, sustainability, legal or public health implications that have not already been assessed and appropriate safeguards and/or actions taken or included within the detailed policies or practices or requirements relating to the conduct of meetings, to safeguard the Council's position.

JAN SHADBOLT

[Electoral Divisions: All]

Local Government Act 1972: List of Background Papers

Contact for Enquiries: K Strahan

Tel No: 01392 382264 Room: G31

<u>Background Paper</u>	<u>Date</u>	<u>File Reference</u>
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Nil



Internal Audit Report

Ethics and Ethical Governance

Devon County Council

March 2018



Support, Assurance & Innovation

Agenda Item 7

Devon Audit Partnership

Devon Audit Partnership has been formed under a joint committee arrangement comprising of Plymouth, Torbay, Devon, Torridge and Mid-Devon councils and we aim to be recognised as a high quality public sector service provider.

We work with our partners by providing professional internal audit and assurance services that will assist them in meeting their challenges, managing their risks and achieving their goals. In carrying out our work we are required to comply with the Public Sector Internal Audit Standards (PSIAS) along with other best practice and professional standards.

The Partnership is committed to providing high quality, professional customer services to all; if you have any comments or suggestions on our service, processes or standards, the Head of Partnership would be pleased to receive them at robert.hutchins@devonaudit.gov.uk.

Confidentiality and Disclosure Clause

This report is protectively marked in accordance with the National Protective Marking Scheme. Its contents are confidential and, whilst it is accepted that issues raised may well need to be discussed with other officers within the organisation, the report itself should only be copied/circulated/disclosed to anyone outside of the organisation in line with the organisation's disclosure policies.

This report is prepared for the organisation's use. We can take no responsibility to any third party for any reliance they might place upon it.

1 Introduction

There is a differentiation between 'organisational culture' (i.e. beliefs, employment practices, behaviours, acceptable language guide, transparency of decision making etc.) and those 'ethical governance' policies and 'operating rules' - to give effect to the former (i.e. how those were embedded, rolled out and monitored) and the differing roles of member and officers in both respects.

The Leadership Group are currently doing a lot of work around organisational culture, which is designed to support the Chief Executive in effecting change in the way leaders think, the things they pay attention to and see as important and the measures they use. All of these things will shape how systems and the people within them behave and, as such, will have an impact on culture.

The Finance Leadership Group discussed proposals for an "audit" on how leadership initiatives such as "Stop the Clock" were working and how they were impacting on the culture of the Council. This co-insides with the requirement to include an audit on culture and ethics within the annual audit plan in order to comply with the Public Sector Internal Audit Standards (PSIAS).

However, it was agreed that a review of "organisational culture" would not take place to allow the changes referred to above to become embedded. This audit would therefore focus on ethics and ethical governance only. The audit took place in February 2018.

2 Audit Opinion

High Standard - The system and controls in place adequately mitigate exposure to the risks identified. The system is being adhered to and substantial reliance can be placed upon the procedures in place. We have made only minor recommendations aimed at further enhancing already sound procedures.

3 Executive Summary

The Ethics review carried out, has confirmed that the Council has a robust ethical framework in place which is set out in the Code of Corporate Governance (Constitution). The Constitution takes account of statutory obligations, Government guidance as well as its local Code of Ethics. The framework is based on the principles & sub-principles of corporate governance contained within the CIPFA/SOLACE Framework (2016).

There was found to be clear dissemination, delivery, monitoring and maintenance of the ethical standards throughout. Particular areas of strength identified were the monitoring being carried out by the Standards Committee of compliance with the Ethical Governance Framework, and Member induction training.

Whilst a few recommendations have been made in this report, these will serve to further enhance what is already robust ethical framework, e.g. formalising a sub-delegation within the scheme of delegation.

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The detailed findings and recommendations regarding these issues and less important matters are described in the Appendices. Recommendations have been categorised to aid prioritisation. Definitions of the priority categories and the assurance opinion ratings are also given in the Appendices to this report.

4 Assurance Opinion on Specific Sections

The following table summarises our assurance opinions on each of the areas covered during the audit. These combine to provide the overall assurance opinion at Section 2. Definitions of the assurance opinion ratings can be found in the Appendices.

Areas Covered		Level of Assurance
1	How the Council decides what type of ethical organisation it wants to be and how it is being put into practice.	High Standard
2	How the Council disseminates, delivers, monitors and maintains its ethical standards throughout the organisation.	High Standard

The findings and recommendations in relation to each of these areas are discussed in the "Detailed Audit Observations and Action Plan" appendix. This appendix records the action plan agreed by management to enhance the internal control framework and mitigate identified risks where agreed.

Management are required to agree an action plan, ideally within three weeks of receiving the draft internal audit report. Written responses should be returned to Chris Elliott (chris.elliott@devonaudit.gov.uk) or Alexis Saffin (alexis.saffin@devonaudit.gov.uk). Alternatively a meeting to discuss the report and agree the action plan should be arranged with the named auditors.

5 Issues for the Annual Governance Statement

The evidence obtained in internal audit reviews can identify issues in respect of risk management, systems and controls that may be relevant to the Annual Governance Statement. There were no issues identified that warrant inclusion in the annual governance statement.

6 Scope and Objectives

This audit focussed on ethics and "ethical governance", and looked at :

- how the Council decides the type of organisation it wants to be and how is being put into practice;
- how that is disseminated, delivered, monitored and maintained throughout the organisation; and the different roles and responsibilities of Members and Officers.

7 Inherent Limitations

The opinions and recommendations contained within this report are based on our examination of restricted samples of transactions / records and our discussions with officers responsible for the processes reviewed.

8 Acknowledgements

We would like to express our thanks and appreciation to all those who provided support and assistance during the course of this audit.

Robert Hutchins
Head of Partnership

Detailed Audit Observations and Action Plan

1. Area Covered: 1 - How the Council decides what type of ethical organisation it wants to be and how it is being put into practice.		Level of Assurance	
<p>Opinion Statement:</p> <p>The Ethics review carried out, has confirmed that the Council has set its corporate vision, business objectives, and has agreed its code of ethics. Evidence includes: a formalised a Code of Corporate Governance (Constitution), which was found to take account of statutory obligations, Government guidance and its local Code of Ethics. The Constitution is based on the principles & sub-principles of corporate governance contained within the CIPFA/SOLACE Framework (2016), and sets out how the Council operates, how decisions are made and the procedures / standards which are followed to ensure that these are efficient, transparent an accountable to local people.</p> <p>There were aspects of the Constitution, however, which could be further strengthened. One relates to the formalising of the sub-scheme of delegation where the Chief Officers and / or Heads of Service can delegate further to other Senior Managers. Whilst this is being recorded, it is not in a consistent format nor forms part of the overall scheme of delegation, and there is a risk that any sub-delegation set could conflict with the delegation set in the financial regulations. A couple of recommendations have been made in this section which will serve to strengthen the Constitution and Ethical Framework of the Council.</p>		<p>High Standard</p>	
No	Observation and implications		
1.1	<p>Part 11 of the Constitution - "Corporate Governance Framework" has not been updated for a number of years. The framework still cites old references, e.g.</p> <ul style="list-style-type: none"> • Backing Devon County Council's Strategic Plan 2011-15; • District Auditors Annual Management Letter; • The Audit Commission's Annual Governance Report. <p>It is recognised that work is ongoing to bring all sections of the Constitution is being brought up to date, and this would include Part 11 in due course. Although a recommendation has been included in this report, it has been given a low priority risk ranking.</p>		
	Recommendation	Priority	Management response and action plan including responsible officer
1.1.1	Section 11 of the Constitution needs to be updated as part of the ongoing update of the Constitution. A way to minimise this section needing to be updated in future is to refer to the generic document rather than cite specific dates or naming the auditor, e.g. instead of citing "2011-15 business plan", simply refer to "the latest business plan".	Low	The recommendation is agreed. A meeting has already taken place and Section 11 will be updated following a further desktop analysis of key policy documentation.

No.	Observation and implications		
1.2	<p>Review of Part 03 of the Constitution "Responsibility for Functions" found it to clearly capture the discharge of certain functions by the Cabinet, to Committees of the Council and Chief Officers. The "Responsibility for Functions" included "Terms of Reference" for all the committees and Boards, "Scheme of Delegation"; "Appeals and Planning and Infrastructure Project", "Schedule of Delegated Powers", Locality Budget Operating Principles".</p> <p>One observation was made relating to the Scheme of Delegation. . The Scheme of Delegation clearly identifies the responsibilities and delegation of statutory functions to the Chief Officers and Heads of Service within the Constitution. Discussions confirmed that Democratic Services keeps a record of all items delegated by Chief Officers and Heads of Service in a file in the office, however, such a record could not be found for one Head of Service, and in relation to the others, there doesn't appear to be a consistent method for recording the onward delegation of responsibilities to other by Heads of Service or Chief Officers, and are not held electronically. This raises concern that these sub-delegations may contain conflicts with financial regulations.</p>		
	Recommendation	Priority	Management response and action plan including responsible officer
1.2.1	The sub delegation needs to be formalised in a consistent manner. In relation to financial delegation, this was raised with Martin Oram, Assistant County Treasurer, who is in the process of undertaking a review of the financial regulations.	Medium	The recommendation is agreed. The Democratic Services and Scrutiny Secretariat will be undertaking such a review and will do so on an annual basis to ensure accuracy and consistency.
No	Observation and implications		
Page 39	<p>Whilst an "Anti-Fraud and Corruption Policy - Strategy for dealing with financial irregularities" has been drafted (and is referred to within the Code of Business Conduct section of the Constitution, the strategy could not be found either published on the DCC public website or through Share Point. A copy of the Strategy had to be obtained through Devon Audit Partnership. Publishing of this policy demonstrates openness and zero tolerance culture.</p>		
	Recommendation	Priority	Management response and action plan including responsible officer
1.3.1	The Anti-Fraud and Corruption Policy - Strategy for dealing with financial irregularities needs to be published on the DCC website	Medium	<p>In the move to Inside Devon from the Source, the page and link in relation to this appeared to have not migrated. However a new page has now been created on Inside Devon and the relevant documentation published accordingly.</p> <p>https://inside.devon.gov.uk/task/anti-fraud-and-corruption/</p>

2. Area Covered: 2. How the Council disseminates, delivers, monitors and maintains its ethical standards throughout the organisation.	Level of Assurance
<p>Opinion Statement:</p> <p>There are a number of ways in which the Council disseminates, delivers, monitors and maintains its ethical standards throughout the organisation enabling a high level of assurance to be given (as demonstrated below).</p> <p>It is no longer a statutory requirement for Councils to have a Standards Committee within its governance structure, but they must have a procedure for investigating and dealing with complaints. DCC have chosen, however, to retain its Standards Committee.</p> <p>Responsibilities of the Standards Committee include monitoring of compliance against the code of conduct and ethical standards of councillors and officers, implementation and training on the Code of Conduct & ethical standards, dealing with complaints relating to the conduct of Councillors. Their responsibilities are clearly defined in the terms of reference.</p> <p>Review of minutes and supporting papers confirmed that the Standards Committee are undertaking their roles as prescribed in their terms of reference, including investigation of any complaints into Member conduct. There was training provided to Councillors in December 2017 regarding conduct at meetings, which was instigated following one such complaint, and this demonstrates good follow up action.</p> <p>A particular area of strength identified was the monitoring being carried out by the Standards Committee of compliance with the Ethical Governance Framework, which takes place throughout the year, where the independent Co-opted Members of this Committee attend various meetings of the Council, the Cabinet & other Committees on an ad-hoc basis and produce a report on their findings to the Standard Committee.</p> <p>There was found to be a clear programme of induction training for new Councillors, as well as evidence of ongoing Member development. The Council holds the "Charter Plus" accreditation which provides a robust, structured framework designed to help the Council enhance and hone member development and it's clear that this is embedded within the training regime for the councillors.</p> <p>A register of business interests and code of conduct register is maintained for all councillors, is published on the Council's website and is subject to annual review and update. Where there is a potential conflict of interest for a councillor at a meeting, this is declared, clearly recorded in the minutes and published. In relation to the completion of business interests' registers for officers of the Council, a recommendation has been made for all Chief Officers and Heads of Service (LG14), e.g. those with delegated powers all complete a register, and not just being asked to complete by exception. This would provide for improved transparency and demonstrate openness and integrity in Officers' decision making.</p> <p>The Council also maintains a gifts and hospitality register for both Councillors and officers which is held in a file in Democratic Services.</p>	<p>High Standard</p>

No.	Observation and implications		
2.1	<p>Sample testing confirmed that up to date registers of business interests & Code of Conduct had been completed by all Councillors, as well as any other appointed Co-opted Members, had been reviewed within the last 12 months and the registers published on the website.</p> <p>In respect of Officers of Devon County Council, only those where there is a conflict of interest are required to complete a register of business interests form. These forms are held in a file within Democratic Services, and are subject to annual review and update. The existing procedure of completion by exception would seem appropriate for most staff. However, Cabinet have delegated down statutory / legal responsibility and accountability to Chief Officers and Heads of Service, and in the absence of a declaration form, reduces the level of transparency and openness of strategic decision-making, and increase the risk of accusations of bias.</p>		
	Recommendation	Priority	Management response and action plan including responsible officer
2.1.1	<p>Consideration should be given to business / conflicts of interest forms being completed by all members of LG14, and where there are no interests, a "nil" entry should be recorded, and the form signed and dated. Also consider publishing these on line. The process for all other staff need not change.</p>	Medium	<p>This is agreed. A review will be undertaken to obtain business / conflict of interest forms from Chief Officers and Heads of Service, even when this might be a 'nil' return.</p>

Definitions of Audit Assurance Opinion Levels

Assurance	Definition
High Standard.	The system and controls in place adequately mitigate exposure to the risks identified. The system is being adhered to and substantial reliance can be placed upon the procedures in place. We have made only minor recommendations aimed at further enhancing already sound procedures.
Good Standard.	The systems and controls generally mitigate the risk identified but a few weaknesses have been identified and / or mitigating controls may not be fully applied. There are no significant matters arising from the audit and the recommendations made serve to strengthen what are mainly reliable procedures.
Improvements required.	In our opinion there are a number of instances where controls and procedures do not adequately mitigate the risks identified. Existing procedures need to be improved in order to ensure that they are fully reliable. Recommendations have been made to ensure that organisational objectives are not put at risk.
Fundamental Weaknesses Identified.	The risks identified are not being controlled and there is an increased likelihood that risks could occur. The matters arising from the audit are sufficiently significant to place doubt on the reliability of the procedures reviewed, to an extent that the objectives and / or resources of the Council may be at risk, and the ability to deliver the service may be adversely affected. Implementation of the recommendations made is a priority.

Definition of Recommendation Priority

Priority	Definitions
High	A significant finding. A key control is absent or is being compromised; if not acted upon this could result in high exposure to risk. Failure to address could result in internal or external responsibilities and obligations not being met.
Medium	Control arrangements not operating as required resulting in a moderate exposure to risk. This could result in minor disruption of service, undetected errors or inefficiencies in service provision. Important recommendations made to improve internal control arrangements and manage identified risks.
Low	Low risk issues, minor system compliance concerns or process inefficiencies where benefit would be gained from improving arrangements. Management should review, make changes if considered necessary or formally agree to accept the risks. These issues may be dealt with outside of the formal report during the course of the audit.
Opportunity	A recommendation to drive operational improvement which may enable efficiency savings to be realised, capacity to be created, support opportunity for commercialisation / income generation or improve customer experience. These recommendations do not feed into the assurance control environment.

Confidentiality under the National Protective Marking Scheme

Marking	Definitions
Official	The majority of information that is created or processed by the public sector. This includes routine business operations and services, some of which could have damaging consequences if lost, stolen or published in the media, but are not subject to a heightened threat profile.
Secret	Very sensitive information that justifies heightened protective measures to defend against determined and highly capable threat actors. For example, where compromise could seriously damage military capabilities, international relations or the investigation of serious organised crime.
Top Secret	The most sensitive information requiring the highest levels of protection from the most serious threats. For example, where compromise could cause widespread loss of life or else threaten the security or economic wellbeing of the country or friendly nations.

Review of Local Government Ethical Standards: Stakeholder Consultation - Devon County Council Standards Committee Submission

Report of the County Solicitor

Recommendation: that the final submission to the Consultation, outlined below, be noted.

Introduction (Submission from Devon County Council Standards Committee)

Devon is an upper tier authority with 60 Councillors. There are eight district and borough councils in the area and two neighbouring unitary authorities (Plymouth and Torbay).

After 2012 and the changes to the national regime, Devon County Council retained a Standards Committee comprising 7 elected Members (including the Chair of the Council presiding as Chair of the Committee to demonstrate the independence of the position) and 5 co-opted members, some of whom were the Independent Members of the former Standards Committee (pre 2012). The Committee's current terms of reference include:

- Advising the County Council on the adoption of a Members' Code of Conduct with any appropriate local provisions and its subsequent monitoring and updating;
- Implementing the Code of Conduct including the training of members and officers;
- Advising members as to the declaration of interests and the grant of dispensations where appropriate to allow members to participate in matters in which they have interests;
- Supervising the Registers of Members' and Officers' Interests and of politically restricted officers;
- Receiving reports and advising the Council on any disciplinary sanctions imposed or consign action within the Council's own competence;
- Advising the County Council on disciplinary matters within its competence;
- Overseeing the Council's policy on the Proper Conduct of Business;
- Developing and adopting a Code of Practice on relations between members and officers;
- Responsibility for the Council's procedures for investigating and responding to complaints;
- Adopting contract conditions to apply the Council's complaints procedure to contractors;
- Approving a Local Planning code;
- Considering Findings of Maladministration by the Local Government Ombudsman;
- Undertaking such other functions as the Secretary of State may by regulations refer to a Local Authority Standards Committee.

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The Standards Committee also produces annual reports.

The Council has defined processes for receiving, considering, investigating and determining complaints at <https://new.devon.gov.uk/democracy/councillors-nav/making-a-complaint-about-a-devon-county-councillor/>

Consultation questions

- 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.

The current Code adopted was very much based on the former, reflecting the Nolan principles. There was an attempt across Devon to dovetail codes across the Districts and County (particularly around the declarations of interest) to try and have some consistency, which is especially helpful for those Members who are dual hatters. When a process is dependent on local determination it is not always possible to achieve common practice, which can lead to inconsistencies.

However, on the whole the structures, processes and practices in place are sufficient to ensure high standards of conduct.

- b. What, if any, are the most significant gaps in the current ethical standards regime for local government?

As stated above, the structures are essentially adequate, but some Members feel that the current regime (and therefore Standards Committee) 'lacks teeth' ... but this will be referred to later in more detail when addressing sanctions.

It is felt there should be provision to legislate that Co-opted Members of the Standards Committee should be full voting members. Anything less, demeans the position and role.

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?

The Code forms part of the Constitution. Devon County Council carries out regular training both at Member Induction events and also at regular intervals throughout the administration to reinforce what is expected in terms of good behaviour / declarations of interests / meetings protocol / rules of debate to try and prevent some of the more common errors. The County Solicitor / Monitoring Officer takes a very active role in such events, emphasising its importance. Attendance is generally good. We endeavour to make training events interesting and take in some of the wider issues around good conduct, for example the webcasting of many Devon meetings. At the training we show videos of both Gloucester and Plymouth Councillors being reported in the Press,

emphasising the dangers of poor behaviour being shared widely (and quickly) across social media and the web.

<http://www.bbc.co.uk/news/av/uk-england-gloucestershire-40451898/gloucestershire-councillors-sleeping-during-meeting>

<http://www.bbc.co.uk/news/uk-england-devon-39105598>

Training also covers social media and in particular the issues and opportunities presented by it. A social media protocol for members is available.

In support of promoting and maintaining high standards of conduct by councillors and co-opted members and to monitor the operation of the Members' Code of Conduct, the Co-opted Members of the Committee attend meetings of the Council, its Cabinet and / or other Committees to observe how the meeting was conducted. They complete an assessment on issues such as Punctuality and Attendance of Members, Appearance and presentation, Speeches (clear, relevant, understandable, audio levels, use of microphones etc), Use of appropriate language, Members' Conduct & Behaviour, Clear identification and declaration of interests, Effective Chairmanship/conduct of meeting, Adherence to Agenda and Listening and responding to advice (from Officers) to monitor compliance with the Council's ethical governance framework and adherence by Members and Officers alike to that framework. This is then reported to the Standards Committee.

Furthermore, there are regular opportunities for Councillors to speak with officers on matters such as declarations of interests, with the County Solicitor / Monitoring Officer making herself available at a regular time slot on Council days to talk through issues.

- 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.

Whilst the provision is appropriate, there appears to be a lack of clarity on declaring interests where a family member might be affected. The revised standards ask Members to declare the interest of their spouse as if it were their own, but there could be occasions where a family member is affected by a proposal (for example a brother owns a property affected by a planning decision) and in the eyes of the law they don't need to declare that. Of course, we advise that there is a public perception issue and an interest needs to be declared, but the guidance is not transparent in relation to family members.

Members are clear on where to seek advice on issues such as DPI's, personal interests and / or pre-determination.

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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?

On receipt of a complaint, the Monitoring Officer will carry out a preliminary assessment of whether the alleged behaviour falls within the Code of Conduct – and collect any information deemed necessary. Following consultation with the Independent Person, if the complaint is not progressed, the Monitoring Officer will notify the complainant in writing of that fact, with reasons and also write to the subject member.

If the Monitoring Officer is of the view that local settlement is unlikely / unachievable, or the complaint warrants it, they will, following consultation with the IP arrange the conduct of a formal investigation and report the findings (together with the views of the Independent Person) to the full Standards Committee for hearing and determination.

The Monitoring Officer may also refer the complaint to an Assessment Sub-Committee to determine whether or not the allegation appears to disclose a failure to observe the Members' Code of Conduct and whether the matter merits investigation. This is helpful and provides an additional safeguard as to whether an investigation is necessary.

Investigations are carried out by suitably qualified Officers or a person external of the Authority, if required. The subject member is given the opportunity to give his/her input to the investigation before the findings are reported to the Standards Committee.

Findings are reported to the Standards Committee.

The processes for the consideration, investigation and determination of complaints is open, fair and transparent and it is right and proper that the Independent Person is separate from the Standards Committee and should remain this way.

- 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?

This process allows sufficient objectivity.

In addition, investigations are undertaken by suitably qualified persons, are thorough and based on evidence. Subject members are also part of the process and are sent copies of any final report. Also by presenting the finding to a full meeting of the

Standards Committee allows for appropriate scrutiny of the Report and for relevant challenge to be made.

- 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?

It is unlikely that the Monitoring Officers would be subject to such conflicts of interest but if that occurred then it would be a case of asking the Deputy Monitoring Officer to deal with. The role of the Deputy Monitoring Officer is therefore important in this context.

Sanctions

- f. Are existing sanctions for councillor misconduct sufficient?

Members of the Standards Committee requested input into this section of the Consultation raising the issue of sanctions, stating that current sanctions are not felt to be sufficient. They said that there are so few actual sanctions including the ability to suspend pending an investigation as well as imposing an effective sanction afterwards once a breach is established. Their view was that the process leaves it to the individual to do the right thing or the media to highlight the poor conduct but there should be the ability for a Standards Committee to offer some meaningful sanction if the idea is to maintain and enforce Codes of Conduct and give meaningful support to those who are on the receiving end of wrong doing. The representations made by Members of the Committee felt that the most recent changes to the regime were a retrograde step.

They also said that Officers have no control over members' behaviour, with the exception of the Monitoring Officer advising or 'having a word', but it is felt that the Standards Committee has 'no teeth'.

Whilst it is accepted that Councillors can be 'voted out' at the next election, Devon County Council elections are every four years, therefore that opportunity could be years ahead. Public memory may fade and in the meantime the Council is supporting and council taxpayers are paying for a Councillor who is deemed to have broken the Code in some aspect. This makes a mockery of both the Code and the procedure of investigating the complaint and there is a danger that Complainants may wonder why they placed their heads above the parapet if very little happens.

In a nutshell, the Member who made the representations felt that current sanctions were not sufficient to deter breaches and/or to enforce compliance.

However, it is also important to look at proportionality and there is an argument that to suspend prior to an investigation might be seen as 'harsh' or premature. However, this

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Council does feel there is merit in standards committees having suspension available at the point of sanction.

- 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?

For the most part, sanctions such a training / review of positions / restricting access to buildings etc are normally sufficient.

However, for a very serious breach / misconduct the current sanctions do not appear to reflect appropriately the gravity of a serious complaint / allegation, as reflected above.

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

As above, Members of the Committee have said that the ability to suspend pending an investigation or remove from current committees (depending on the nature of the allegation) should be available. For serious misconduct and for some sanctions, there is a reliance on group leaders to enforce which isn't always effective.

Again, some Members of the Standards Committee made the point that if the position is that a Councillor is elected and cannot be removed, even on a temporary basis, then, apart from publicity and a telling off, there is no effective sanction. They feel the ability of a Standards Committee to impose a suspension should be restored as to do nothing brings the Council into disrepute and deters people from bringing concerns and complaints forward.

As stated above, the issue of proportionality always needs to be considered.

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?

Yes, the current statutory duties are appropriate, in terms of the legal duty to register any pecuniary interests (or those of their spouse or partner), but guidance could be clearer around conflicts of interests, as alluded to earlier.

- 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.

Yes, the process is fine, but Local Authorities can never be 100% sure about the robustness of declaring interests.

Each Councillor's register of interest is published on the County Council's website, as well as a paper record in the offices of the County Solicitor, which includes pecuniary interests, as well as other bodies which they might be part of either by virtue of their Councillor position or in a private capacity (Any other body exercising functions of a public nature or directed to charitable purposes).

At meetings, Members must declare the interest at that point in the meeting and complete a form to give to the Democratic Services Officer in attendance and of course leave the meeting if they have a DPI. We record the interest both in the minutes and on the public website for transparency for members of the public.

The Constitution also provides further guidance on conflict of interest as outlined in the Local Authorities (Executive Arrangements) (Meetings & Access to Information) (England) Regulations 2012 requiring any Member of an Executive (Cabinet) to declare any conflict of interest when taking a decision, either collectively (at Cabinet) or individually under existing procedures, and any dispensation made by the Council.

Rather than the current statutory requirements being inadequate, which is not the case, there is work for Local Authorities to promote a culture of openness and transparency in declaring interests, undertake appropriate and regular training and provide opportunities for Members to speak to Officers if they

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have any concerns. This is the aspect that is harder to solve, but the advice we give is that whilst it is a matter for individuals, it is better to be cautious and declare.

Furthermore, the Monitoring Officer has ensured that the general dispensation is as wide reaching as possible to protect Members accordingly.

Whistleblowing

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

A whistleblowing policy is in place at Devon County Council, it forms part of the Constitution and has been reviewed recently.

This policy was discussed with the relevant trade unions and professional organisations and has their support. It is available to officers, school staff and the general public.

The policy makes it clear that it covers concerns that fall outside the scope of other procedures (i.e it is not intended as recourse against financial or business decisions made by the Council or as an alternative to disciplinary or grievance procedures). There is of course potential for overlap with other corporate policies for dealing with complaints, with Member or Officer Codes of Conduct and with protocols for good working relationships within the Authority.

Members of the public are signposted through the corporate complaints procedure.

In relation to Councillors, Members can speak to senior officers at any time (including the leadership group) about any matter. The Council has always operated in that manner and Members are aware they can do this.

If Members are unsure of the best place to go or the right person to speak to, then either democratic services or member support services provide this signposting function.

To my knowledge, there has never been an instance where a Councillor has not been able to escalate an issue to 'the top'.

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?

Whilst nothing springs to mind in respect of central government action, on a local level if there was some sort of direction to work together on a local code, that might prevent inconsistencies across the County.

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?

This question was asked fairly recently following the May 2017 elections.

On a general level the nature, scale, and extent of intimidation towards local councillors is low, but nevertheless the Council shared the recent Review by the Committee on Standards in Public Life regarding Intimidation in Public Life with the Standards Committee.

Of note was the widespread use of social media which had been the most significant factor enabling intimidatory behaviour and the recommendations aimed at social media companies were welcomed.

The Committee further welcomed the recommendations aimed at all those in public life to not engaging in or tolerate intimidatory behaviour, uphold high standards of conduct, adhere to the Principles of Public Life and recognising the rights of others to participate in public life.

In light of the need for leadership by the largest political parties, Members were asked to share the Report with their own political parties.

There is provision, through the Monitoring Officer, to remove the personal details of individual members from the web if there is a threat or risk of intimidation. The Council has never been approached or asked to consider this.

In November 2017, the Council ran a training session called 'Looking after yourself and your Community' following a number of requests to provide more information to support Members with issues they might encounter in communities. It covered a number of key areas providing an overview of subjects, such as Domestic Violence, but also explored how Members could manage personal safety while fulfilling the community role.

It is however noted that serious matters may require police intervention.

Standards Committee
Devon County Council



Ministry of Housing,
Communities &
Local Government

Consultation on Updating the Disqualification Criteria for Councillors and Mayors

A summary of consultation responses and the Government
response

Agenda Item 9



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Ministerial Foreword

The Government consulted on proposals to update the disqualification criteria for councillors and Mayors to bring it into line with both modern sentencing practice and the values and high standards of behaviours the electorate have a right to expect of the elected members that represent them.

The Government considers there should be consequences where councillors, mayors and London Assembly members fall short of the behaviour expected in an inclusive and tolerant society. Where behaviour has led to a conviction or enforcement action resulting in an individual being subject to one or more of the following: the notification requirements in the Sexual Offences Act 2003; a Sexual Risk Order; a Civil Injunction; a Criminal Behaviour Order we will seek to legislate to ensure that they are disqualified from standing for office as local authority members or Mayors.

As a result, councils across England will have the power to prevent individuals from standing as a councillor or Mayor at the point they trigger the revised disqualification criteria. These proposals will not apply retrospectively.

I am grateful to all those individuals, councils and organisations who took the time to respond to this consultation.

Elected members play a crucial role in town halls across the country, and are the foundations of local democracy. They are community champions, and have a leading role to play in building a better society for everyone.

Rishi Sunak
Minister for Local Government

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Introduction

Local authority members and directly elected Mayors are the heartbeat of local democracy in communities across England. They are entrusted by the electorate to make important decisions for the communities they represent, and on behalf of vulnerable groups, including children and young people. They also have a broad role representing their communities, engaging with local MPs and ensuring the views of their constituents are heard.

The Government believes the proposed revised criteria better reflects 21st century sentencing practices. It will encourage continued public confidence in elected members, and signals the importance we attach to the conduct of elected members.

This consultation proposed updating the disqualification criteria in section 80 of the Local Government Act 1972, paragraph 9 of schedule 5B to the Local Democracy, Economic Development and Construction Act 2009, and section 21 of the Greater London Authority Act 1999 to prohibit those subject to the notification requirements (commonly referred to as 'being on the sex offenders register') and those subject to certain anti-social behaviour sanctions from being local authority members, London Assembly members or directly-elected mayors.

This consultation did not propose changing the disqualification criteria for Police and Crime Commissioners (PCCs). For the purposes of the consultation, 'local authority member' also extended to directly-elected mayors and co-opted members of authorities, and 'local authority' means:

- a county council
- a district council
- a London Borough council
- a parish council

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

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Overview

The consultation on changes to the current disqualification criteria (summary details at Appendix 1) was published on 18 September 2017 and closed on 8 December 2017. Respondents were invited to reply by email or to post written responses to the Department for Communities and Local Government.

The consultation sought views on whether individuals should, or 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 if they are subject to:

- the notification requirements set out in the Sexual Offences Act 2003 (commonly referred to as 'being on the sex offenders register');
- a Sexual Risk Order;
- a civil injunction granted under section 1 of the Anti-Social Behaviour, Crime and Policing Act 2014; or
- a Criminal Behaviour Order made under section 22 of the Anti-social Behaviour, Crime and Policing Act 2014

This consultation was open to everyone. We particularly sought the views of individual members of the public, prospective and current councillors and those bodies that represent the interest of local authorities and councillors at all levels.

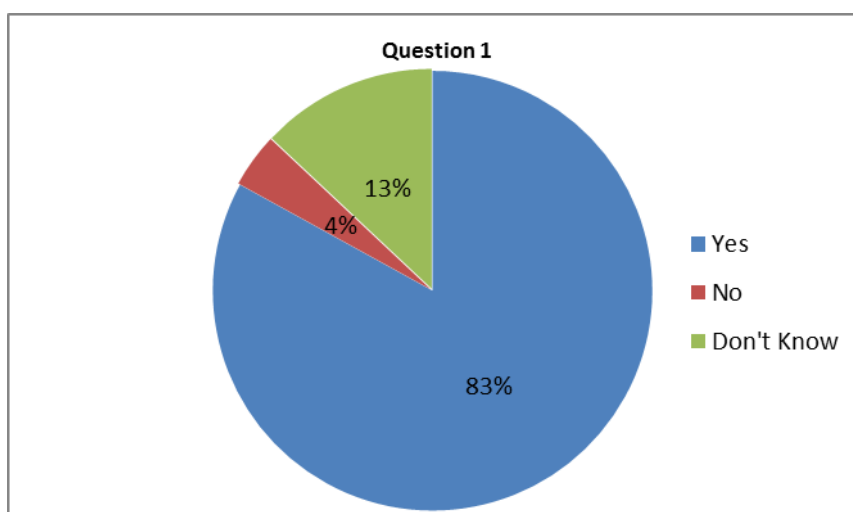
The consultation generated 178 responses, including from parish councils, district councils, London Councils, town councils, borough councils, county councils, membership organisations and individuals.

Consultation responses

Sexual offences

The two questions posed were as follows:-

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?



There was strong majority of respondents (83%) in agreement, 4% against and 13% who didn't know. There were few additional comments on this question – those received were in the following vein:-

“The Committee unanimously agreed that those on the Sex Offenders Register should be prohibited from standing for election”. (response no 088)

“The overriding concern of this council in considering these proposals was the protection of children and vulnerable adults.” (response no 153)

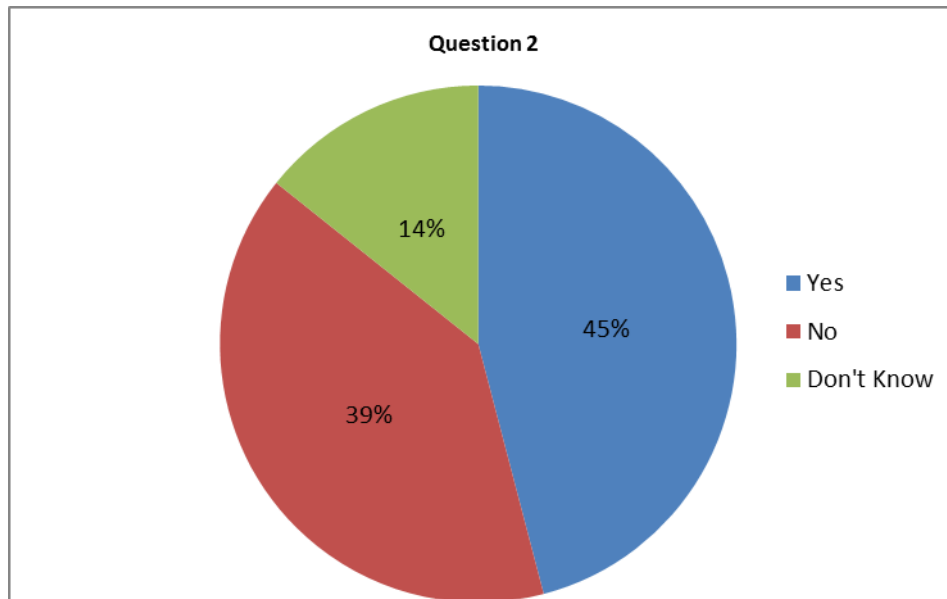
Government response

Having considered the responses received, the Government believes that where an individual who is subject to the notification requirements set out in the Sexual Offences Act 2003 they should be barred 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.

Their disqualification period would end once they were no longer subject to these notification requirements.

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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?



With 45% of respondents answered yes (individuals should not be prohibited from standing) 39% answering no (i.e. they should be prohibited from standing) and 14% answering don't know, there is a less clear outcome from the consultation in respect of this question.

A Sexual Risk Order is not necessarily the result of a conviction, but individuals are subject to this Order because they are deemed by a court to pose a risk of harm to the public in the UK and/or children or vulnerable adults abroad.

Below is a selection of consultation responses received on this subject:-

“those individuals subject to a Sexual Risk Order should also be prohibited from standing as they are still considered to pose a potential risk to the public, and may also become more exposed to situations to abuse their position of trust and take advantage” (response 009);

“a Sexual Risk Order is given to those who pose a risk of harm to the public and/or children or vulnerable adults. Elected councillors have access to sensitive and personal information” (Response 147).

“an individual who is subject to a Sexual Risk Order poses a safeguarding risk” (Response 163).

“Members were uncomfortable with someone who is the subject of such an Order holding office, particularly as this would seem to conflict with the corporate parenting responsibility that is part of every elected Member's role. Members felt that residents would not want such individuals representing them.

It was acknowledged, however, that such individuals will not have been found guilty in a court of law and it could be potentially harmful to the democratic process to disqualify people from standing for election, or holding office, who had not committed any crime” (Response 85) .

In response to the balance of consultation responses the Government believes that individuals who are subject to a Sexual Risk Order have not modelled the behaviour and values that befit the expectations of those whom we elect into public office, and they will not command the respect and confidence of their electorate.

Government response

Having considered the responses received, the Government believes that where an individual is subject to a Sexual Risk Order, they should be prohibited from standing for election, as a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor.

Their disqualification period would end once they were no longer subject to these notification requirements.

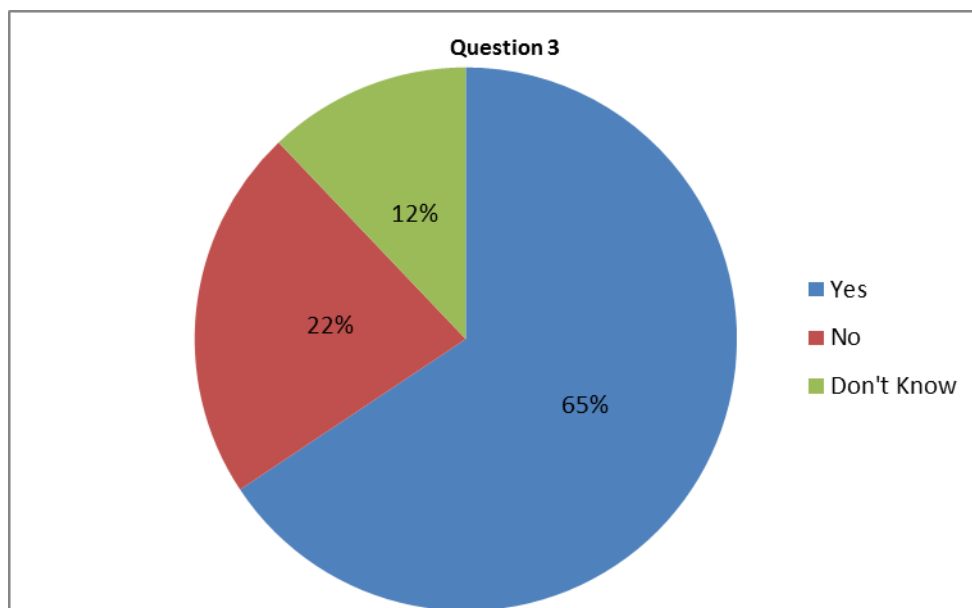
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Anti-social behaviour

Questions 3 and 4 related to anti-social behaviour.

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?

The two anti-social behaviour orders in question i.e. a Civil Injunction or a Criminal Behaviour Order are the only ones that relate to an individual (rather than, for example, restriction in respect of a location or premises) and crucially are issued by the court, rather than the Police or a local authority.



There were 65% of respondents who agreed with this proposal, 22% against and 12% didn't know. Below is a flavour of the responses received:-

" We agree on the basis that the period of time for which they would be barred would end once they are no longer subject to the injunction or order." (response no125)

"...individuals who have been issued with a Civil Injunction or Criminal Behaviour Order should be prohibited from standing for election, or holding office" (response 009)

“...it would not be considered acceptable for people to stand for or hold office where they have been issued with certain Civil Injunctions and Criminal Behaviour Orders” (response 013)

Whilst the majority of respondents were clearly in favour, there were concerns flagged up by some that individuals who had participated in peaceful protest and issued with a Civil Injunction would then be disqualified from local elections. The comment extracted below is representative of those views:-

*“We believe that there is a clear risk that individuals who have been involved in persistent but non-violent protest 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.....
It is possible 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.....”
(response 103)*

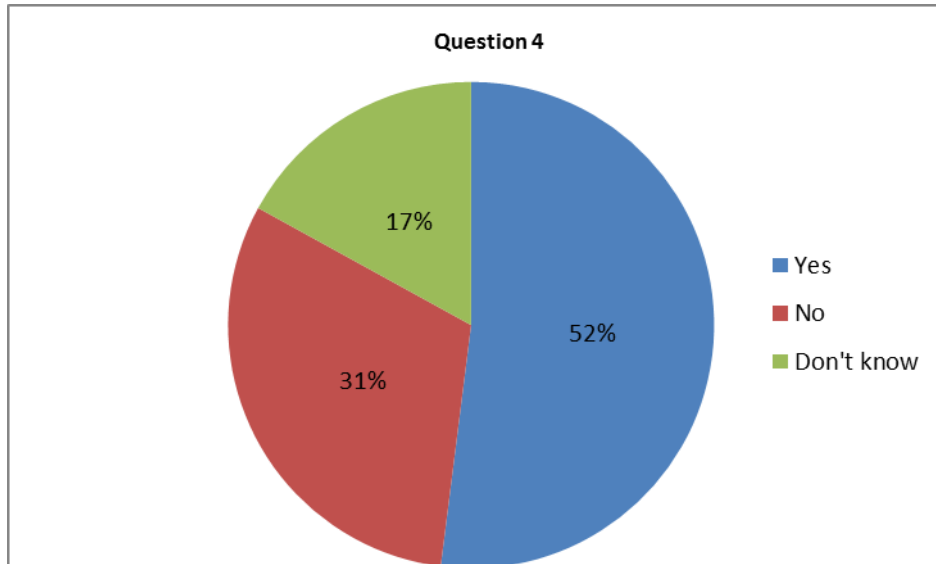
The Government supports the rights of a local councillor to participate in a peaceful protest where they are directly representing the views of their electorate. However as a Civil Injunction is only issued by the courts in response to anti-social behaviour, defined in the legislation as behaviour which causes harassment, alarm or distress, and such behaviour would have no place in a peaceful protest we believe this is a moot point.

Government response

The Government considers that an individual who is subject to an anti-social behaviour sanction issued by the court, i.e. 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 barred from standing for election, as a local authority member, directly-elected mayor or member of the London Assembly. Their disqualification period would end once they were no longer subject to the injunction or Order.

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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?



There were 52% of respondents who agreed with this proposal. The comments extracted below are representative of respondent's views:-

"...we understand the reasoning behind the proposals, and believe that those appointed to public office should not have current "control" orders/injunctions in place, in respect of their behaviour, at the time they are seeking election. Our Members seek reassurance however, that orders which are no longer current (like spent convictions), will not prevent a person seeking office during a subsequent period of time.... (response no 127)

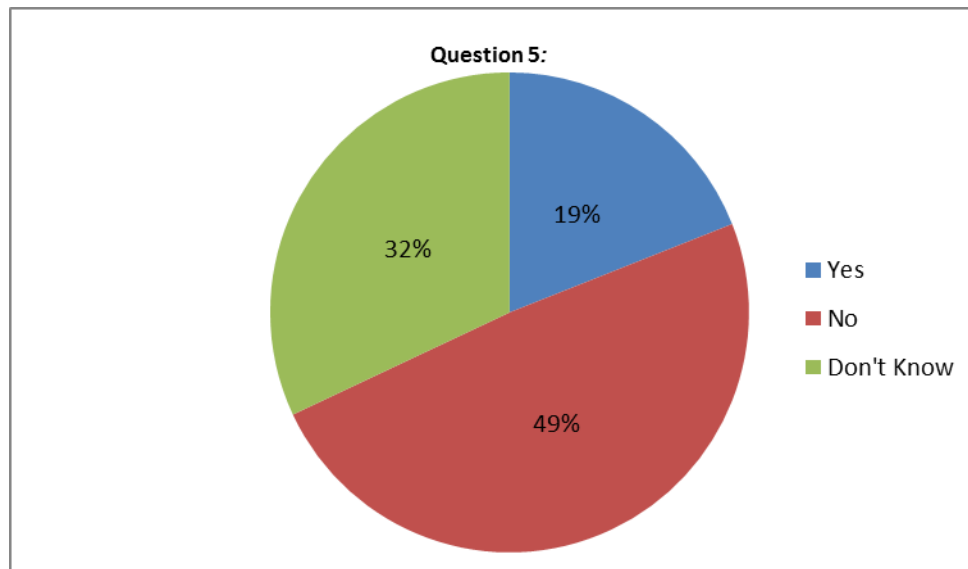
"..The public quite rightly expect individuals within public service, whether elected representatives or officers, to demonstrate high standards of conduct. Individual failings can weaken confidence across the sector. Where an individual is named within a Notice or Order then they should also be prohibited from standing for election or holding office" (response no 160)

Government response

The Government considers that an individual who is subject to an anti-social behaviour sanction issued by the court, i.e. 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 barred from standing for election, as a local authority member, directly-elected mayor or member of the London Assembly. Their disqualification period would end once they were no longer subject to the injunction or Order.

Public Sector Equality Duties under the Equality Act 2010

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?



Some 49% considered that the proposals set out in this consultation paper would not have an effect on local authorities discharging their Public Sector Equality Duties under the Equality Act 2010.

There were very few comments received in respect of this question, an example being:-

“The Public Sector Equality Duties require local authorities to eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Equality Act 2010 and to advance equality of opportunity and foster good relations between those with and those without protected characteristics. As with existing Disqualification Criteria the proposals are universally applicable and therefore do not affect the ability of local authorities to discharge their equality duties.” (response no 058)

Some respondents expressed concern that the proposals would affect the equality duties and were discriminatory in that they singled out individuals for adverse treatment which does not affect other groups and for reasons which do not relate to their conduct as councillors.

The Government’s Equality Impact Assessment on the proposed changes to the Disqualification Criteria for Councillors and Mayors notes that as more men rather than women are subject to Sexual Risk Orders and the notification requirements set out in the Sexual Offences Act 2003 there is a potential indirect impact on men in relation to these proposed policy changes. The assessment concludes that were

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such an impact to be found to exist, there would be countervailing public interest considerations for Councillors and Mayors to be demonstrably of good character, capable of being trusted by the electorate to make important decisions for the communities they represent, and on behalf of vulnerable groups including children and young people. In application of this policy will apply to people who share protected characteristics and people who don't.

Government response

The Government has considered the views expressed in this consultation and does not consider that the proposals will have an effect on local authorities discharging their Public Sector Equality Duties under the Equality Act 2010.

Other views

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

This question provided an opportunity for respondents to provide any additional views on the proposals.

The most frequently occurring views given in response to this question are either covered elsewhere in this document, e.g. the right to peaceful protest (see page 10), or relate to issues that were out of scope of the consultation.

Next steps

Any changes to disqualification criteria for a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor will require changes to primary legislation, in particular the Local Government Act 1972, the Local Democracy, Economic Development and Construction Act 2009, and the Greater London Authority Act 2009.

Government will look to identify a suitable legislative opportunity when parliamentary time allows.

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List of respondents

180 respondents as of 14 December 2017

31 Individuals (names withheld)

15 Organisations / Bodies

Association of Green Councillors
Bedfordshire Association of Town & Parish Councils
Cornwall Association of Local Councils
Kent Association of Local Councils
Lawyers in Local Government
Local Government Association
Middlesbrough Labour Group
Muslim Women's Network UK
National Association of Local Councils
Northumberland Association of Local Councils
Public Law Partnership
Society of Council Clerks (Cornwall)
Society of Local Council Clerks
Suffolk Association of Local Councils
Unlock

37 Parish Councils

Anstey Parish Council
Barrow Gurney Parish Council
Borough Green Parish Council
Brockley Parish Council
Burham Parish Council
Butterow, in parish of Rodborough
Cam Bria Parish Council
Chelveston-cum-Caldecott Parish Council
Cubbington Parish Council
Comberton Parish Council
Cringelford Parish Council
Crockenhill Parish Council
Eastington Parish Council
Effingham Parish Council
Horsmonden Parish Council
Hythe and Dibden Parish Council
Kettleburgh Parish Council
Kingswood Parish Council
Kea Parish Council

Laken Heath Parish Council
Little Gaddesden Parish Council
Little Paxton Parish Council
Luxulyan Parish Council
Nempnett Thrubwell Parish Council
Reymerston & Thuxton Parish Council
Rodborough Parish Council
Snettisham Parish Council
South Wooten Parish Council
St Just in Roseland Parish Council
St Agnes Parish Council
Trowell Parish Council
Walmer Parish Council
Warboys Parish Council
Westerleigh Parish Council
Wiggenhall St Mary Magdalen Parish Council
Westerleigh Parish Council
Yaxham Parish Council

22 District Council

Breckland District Council
East Hertfordshire District Council
East Lindsey District Council
Mansfield District Council
Mendip District Council
Mid Devon District Council
Newark & Sherwood District Council
North Hertfordshire District Council
Selby District Council
South Holland District Council
South Lakeland District Council
Staffordshire Moorlands District Council
Tandridge District Council
Teignbridge District Council
Tendring District Council
Thanet District Council
Torridge District Council
Uttlesford District Council
Warwick District Council
Wealden District Council
West Lindsey District Council
Wyre Forest District Council

14 Town Councils

Beccles Town Council
Bodmin Town Council
Camborne Town Council
Corsham Town Council

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Hednesford Town Council
Littlehampton Town Council
Newark Town Council
New Romney Town Council
Ollerton & Boughton Town Council
St Blaise Town Council
Stowmarket Town Council
Trowbridge Town Council
Winchcombe Town Council
Yate Town Council

8 City Councils

Brighton & Hove City Council
Chelmsford City Council
City of York Council
Exeter City Council
Leeds City Council
Manchester City Council
Newcastle City Council
Sheffield City Council

21 Borough Councils

Blackburn with Darwen Borough Council
Bournemouth Borough Council
Cheltenham Borough Council
Chesterfield Borough Council
Corby Borough Council
Doncaster Borough Council
Fylde Borough Council
Hartlepool Borough Council
High Peak Borough Council
Kettering Borough Council
Middlesbrough Council
Nuneaton and Bedworth Borough Council
Redar and Cleveland Borough Council
Ruscliffe Borough Council
South Ribble Borough Council
Surrey Heath Borough Council
Swindon Borough Council
Watford Borough Council
West Lancashire Borough Council
Wirral Borough Council
Wyre Borough Council

15 County Councils

Devon County Council
Durham County Council

East Sussex County Council
Gloucestershire County Council
Hertfordshire County Council
Lancashire County Council
Leicestershire County Council
Nottingham County Council
Norfolk County Council
Somerset County Council
Staffordshire County Council
Suffolk County Council
Warwickshire County Council
West Sussex County Council
Worcestershire County Council

5 London Councils

Brent Council London Borough Council
Camden London Borough Council
Ealing London Borough Council
Lewisham London Borough Council
Sutton Council

8 Metropolitan Borough Council

Barnsley Metropolitan Council
Gateshead Metropolitan Borough Council
Kirklees Metropolitan Borough Council
Oldham Metropolitan Borough Council
Sandwell Metropolitan Borough Council
Trafford Metropolitan Borough Council
Wigan Metropolitan Council
Wakefield Metropolitan District Council

2 Unitary Authorities

North Lincolnshire Council
Telford and Wrekin Council

1 Fire Authority

Cleveland Fire Authority

1 National Park Authority

Peak District National Park Authority

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Appendix 1: summary of current disqualification criteria

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 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 II 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

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
- are disqualified for being elected or for being a member of a constituent council under Part 3 of the Representation of the People Act 1983.

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;

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- 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.

