



Audit and Standards Committee Report

Report of: The Monitoring Officer/Director of Legal and Governance

Date: 16 November 2017

Subject: Consultation: Disqualification criteria for councillors and mayors

Author of Report: Jason Dietsch, Democratic & Member Services

Summary: The Government has issued a consultation paper, which sets out its proposals for updating the criteria disqualifying individuals from being elected, or holding office, as a local authority member or directly elected mayor. The Audit and Standards Committee is asked to consider a response to the consultation.

Recommendations:

1. That the Audit and Standards Committee considers its response to the consultation paper on updating the disqualification criteria for local authority members.
 2. That the Director of Legal and Governance and Monitoring Officer is requested to formally submit the Committee's response to the Department for Communities and Local Government.
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Background Papers:

Department for Communities and Local Government (DCLG) consultation paper, published September 2017: ***Disqualification criteria for Councillors and Mayors - Consultation on updating disqualification criteria for local authority members.***

Category of Report: OPEN

Statutory and Council Policy Checklist

Financial Implications
NO: Cleared by Pauline Wood
Legal Implications
NO: Cleared by: Nadine Wynter
Equality of Opportunity Implications
NO: Cleared by Michael Bowles
Tackling Health Inequalities Implications
NO
Human rights Implications
NO:
Environmental and Sustainability implications
NO
Economic impact
NO
Community safety implications
NO
Human resources implications
NO
Property implications
NO
Area(s) affected
None
Is the item a matter which is reserved for approval by the City Council?
NO
Press release
NO

CONSULTATION: DISQUALIFICATION CRITERIA FOR COUNCILLORS AND MAYORS

1.0 PURPOSE OF REPORT

- 1.1 To consider a response to government consultation on changes to the criteria for disqualifying individuals from being elected, or holding office as a local authority member or elected mayor.

2.0 INTRODUCTION

- 2.1 The government is consulting on the criteria disqualifying individuals from being elected, or holding office, as a local authority member or directly elected mayor.
- 2.2 The DCLG issued a public consultation paper on 18 September 2017 concerning proposals to update Section 80 of the Local Government Act 1972 and other criteria disqualifying individuals from being elected, or holding office, as a local authority member or co-opted member, directly elected mayor or member of the London Assembly. The consultation paper is appended to this report.
- 2.3 The proposals are to update the criteria disqualifying individuals from standing for, or holding office as, a local authority member, directly-elected mayor or member of the London Assembly, if they are subject to:
- the notification requirements set out in the Sexual Offences Act 2003 (commonly referred to as 'being on the sex offenders register');
 - a civil injunction granted under section 1 of the Anti-social Behaviour, Crime and Policing Act 2014; or
 - a Criminal Behaviour Order made under section 22 of the Anti-social Behaviour, Crime and Policing Act 2014.
- 2.4 Any changes to the disqualification criteria would require changes to primary legislation, in particular the Local Government Act 1972, the Local Democracy, Economic Development and Construction Act 2009, and the Greater London Authority Act 1999. The proposed changes would not be retrospective.
- 2.5 The proposals in the consultation extend to directly-elected mayors and co-opted members of authorities, including county councils, district councils, London Borough councils and parish councils.
- 2.6 The closing date for comments on the disqualification criteria consultation is 8 December 2017.

3.0 BACKGROUND

- 3.1 Paragraph 7 of the consultation document sets out the current criteria which disqualify a person from standing as a candidate or being a member of a local authority under Section 80 of the Local Government Act 1972. It also outlines the criteria for disqualification from standing as or being a directly elected mayor of a combined authority and being the Mayor or a member of the Greater London Authority.
- 3.2 The Localism Act 2011 changed the arrangements relating to ethical standards. It abolished the Standards Board for England and made other changes which limit the type of sanctions which might be imposed on a Member who has breached the Members' Code of Conduct. Local authorities are not able to suspend or disqualify councillors, provided they do not commit a serious criminal offence.
- 3.3 The proposals set out in the government consultation could help to promote high standards in public life and increase public confidence in local government. However, they do not directly address issues relating to potential sanctions and the powers of local authorities relating to the conduct of councillors and breaches of the Code of Conduct.

4.0 THE CONSULTATION

- 4.1 The contents of the consultation paper is as follows:

- Scope of the consultation and basic information about the consultation
- Introduction
- The current disqualification criteria
- Sexual offences
- Anti-social behaviour
- Retrospection
- Questions

- 4.2 The consultation asks the following six questions:

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

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

Q3. Do you agree that an individual who has been issued with a Civil Injunction (made under section 1 of the Anti-social Behaviour, Crime and

Policing Act 2014) or a Criminal Behaviour Order (made under section 22 of the Anti-social Behaviour, Crime and Policing Act 2014) should be prohibited from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor?

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

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

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

4.3 The Audit and Standards Committee is asked to consider how it might respond to these questions.

4.4 **Legal Implications**

4.4.1 Pending any changes to primary legislation there are no immediate legal implications.

4.4.2 **Section 80 Local Government Act 1972** - The current provisions governing disqualification for election and holding office as a member of a local authority are contained in this section. These provisions are set out in paragraph 7 on page 9 of the consultation paper appended to this report.

4.4.3 **The notification requirements set out in the Sexual Offences Act 2003, commonly referred to as "being on the sex offenders register"** - The notification requirements are an automatic requirement for offenders who receive a conviction, caution, reprimand or warning for certain criminal acts or for being issued with certain types of civil order. These requirements are set out in paragraph 11 on page 11 of the consultation paper appended to this report.

4.4.4 **A civil injunction granted under section 1 of the Anti-social Behaviour, Crime and Policing Act 2014** - The civil injunctions are intended to tackle low-level anti-social behaviour. Further information is available in paragraph 17 on page 13 of the consultation paper appended to this report.

4.4.5 **A criminal behaviour order made under section 22 of the Anti-social**

Behaviour, Crime and Policing Act 2014 - The criminal behaviour orders are intended to tackle more serious, persistent behaviour. Further information is available in paragraph 17 on page 13 of the consultation paper appended to this report.

4.5 Equality of opportunity implications

- 4.5.1 There are no direct equalities implications. Question 5 (see 4.2 above) asks consultees to consider whether 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.
- 4.5.2 The public sector equality duty is a duty on public authorities to consider how their policies or decisions affect people who are protected under the Equality Act. It requires public bodies to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; advance equality of opportunity; and foster good relations.

4.6 Financial implications

- 4.6.1 There are no financial implications directly arising from this report.

5.0 RECOMMENDATIONS

- 5.1 That the Audit and Standards Committee considers its response to the consultation paper on updating the disqualification criteria for local authority members.
- 5.2 That the Director of Legal and Governance and Monitoring Officer is requested to formally submit the Committee's response to the Department for Communities and Local Government.

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