

Committee: Standards

Agenda Item

Date: 6 November 2017

3

Title: DCLG Consultation on updating disqualification criteria for local authority members

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Item for decision:
yes

Summary

1. The Department of Communities and Local Government has issued a consultation paper setting out the government's proposals for updating the criteria disqualifying individuals from standing for, or holding office as, a local authority member, directly-elected mayor or member of the London Assembly.
2. Responses to the consultation should be received by no later than 5pm on Friday 8 December 2017. Members are invited to consider a response.

Recommendations

3. That the Committee authorises the Interim Head of Legal Services, in consultation with the Committee Chairman, to draft and submit a response to the consultation reflecting the Committee's views expressed at the meeting.

Financial Implications

4. None.

Background Papers

5. The full consultation document may be found at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/645454/Disqualification_criteria_for_councillors_and_mayors.pdf

Impact

- 6.

Communication/Consultation	This report relates to consultation by the government.
Community Safety	None directly.
Equalities	None directly.
Health and Safety	None directly.
Human Rights/Legal	The adoption of the proposals would affect

Implications	the entitlement of some individuals to stand for election or, once elected to retain their seats. The disqualification provisions will not have retrospective effect.
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

Situation

7. The consultation document states:

“The Government considers that there should be consequences where councillors, mayors and London Assembly members fall short of the behaviour expected of anyone in a free, inclusive and tolerant society that respects individuals and society generally, and where this has led to enforcement action against an individual.”

8. The current legislation prevents individuals from standing for, or holding office, as a councillor if they have, within five years of the day of the election, or since their election, been convicted in the UK, Channel Islands or Isle of Man of any offence and have received a sentence of imprisonment, suspended or not, for a period of not less than three months without the option of a fine.

9. The full range of disqualification criteria apply to people who:

- are employed by the local authority;
- are employed by a company which is under the control of the local authority;
- are subject to bankruptcy orders;
- have, within 5 years before being elected, or at any time since being elected, been convicted in the UK, Channel Islands or Isle of Man of any offence and have received a sentence of imprisonment (suspended or not) for a period of not less than three months without the option of a fine;
- are disqualified under Part III of the Representation of the People Act 1983 (if guilty of a corrupt or illegal electoral practice);
- 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.

10. The consultation seeks views on extending the criteria for disqualification.

Sexual offences

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

12. The consultation does not propose extending disqualification to those subject to a Sexual Risk Order. This is because such a person would not have been convicted or cautioned of a sexual offence under the Sexual Offences Act 2003 and is not subject to notification requirements for registered sex offenders. A Sexual Risk Order does require the individual to notify to the police their name and their home address. A Sexual Risk Order can be sought by the police against an individual who has not been convicted, cautioned etc. of an offence but who is nevertheless thought to pose a risk of harm to the public in the UK and/or children or vulnerable adults abroad.

13. The consultation asks these 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. who is on the sex offenders register) should be prohibited from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor?

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

Anti-Social Behaviour

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

15. The table below summarised the orders in question:

Power	Description
Civil Injunction	A civil order with a civil burden of proof. The injunction can include both prohibitions and positive requirements to tackle the underlying causes of the behaviour. Applications can be made by

	<p>police, councils, social landlords, Transport for London, Environment Agency, Natural Resources Wales and NHS Protect.</p>
<p>Criminal Behaviour Order</p>	<p>A court order available on conviction. The order can be issued by any criminal court against a person who has been convicted of an offence. It is aimed at tackling the most persistently anti-social individuals who are also engaged in criminal activity. The order can include both prohibitions and positive requirements. Applications are made by the prosecution, in most cases by the Crown Prosecution Service, either at its own initiative or following a request from the police or council.</p>

16. The consultation asks these questions:

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?

17. Members may wish to consider the differences between these two types of order and should note the different standards of proof that apply in obtaining an order.

Further Questions

18. The consultation concludes by asking:

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?

Risk Analysis

19.

Risk	Likelihood	Impact	Mitigating actions
That local government is brought into disrepute by the personal behaviour of candidates or councillors	2	3	Application of the current Code of Conduct. Responding to the DCLG consultation summarised in this report.

- 1 = Little or no risk or impact
- 2 = Some risk or impact – action may be necessary.
- 3 = Significant risk or impact – action required
- 4 = Near certainty of risk occurring, catastrophic effect or failure of project.