

REPORT TO AUDIT & GOVERNANCE

Date of Meeting: 6th DECEMBER 2017

Report of: City Solicitor & Head of HR

Title: Disqualification Criteria for Councillors and Mayors

Is this a Key Decision?

No

* One that affects finances over £1m or significantly affects two or more wards. If this is a key decision then the item must be on the appropriate forward plan of key decisions.

Is this an Executive or Council Function?

COUNCIL

1. What is the report about?

- 1.1 To seek Members views on the Consultation Paper, set out as Appendix 1 to this report, setting out the Governments' 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.
- 1.2 The consultation will run for twelve weeks and will close on Friday the 8 December 2017.

2. Recommendations:

- 2.1 Members are asked to note the content of this report.
- 2.2 Members are asked whether they agree the following questions:
 - Should an individual who is subject to the Notification requirement set out in the Sexual offenders Act 2003 should be prohibited from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or the London Mayor?
 - Should an individual who is subject to Sexual Risk Order be free to stand for election as a member of a local authority, mayor of a combined authority, member of the London Assembly or the London Mayor?
 - Should an individual subject to a Civil Injunction or Criminal Behaviour Order 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?
 - Do you agree that being subject to Civil Injunction or Criminal Behaviour Order 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 the London Mayor?
 - Do you consider that the proposal set out in the consultation paper will have an effect on the local authorities discharging their Public Sector Equalities Duties under the Equalities Act 2010?

- Do members have any further views on the proposals set out in this consultation paper?

3. What are the resource implications including non-financial resources.

3.1 There are no resource implications associated with this report.

4. Section 151 Officer Comments:

4.1 There are no financial implications contained in this report.

5. What are the legal aspects?

5.1 The legal aspects are set out in paragraph 8 of this report.

6. Monitoring Officer's comments:

6.1 The Monitoring Officer welcomes these proposals. However, these new disqualification rules do nothing to address the issues raised by Local Government in relation to the current members Code of Conduct which lacks the power to impose sanctions such as suspending a member who has been found to have breached the rules of conduct.

7. Returning Officer's comments

7.1 The Returning Officer welcomes these proposals, provided sufficient clarity is given in the proposed legislation as to the reasons for possible disqualification.

7. Report details:

7.1 It is the Government's view that councillors take strategic decisions that affect everyone's life. They decide how best to use council taxpayers' money and manage local authority resources, including property, land and assets. They have a leading role to play in building and preserving a society where the rights and freedoms of individuals are respected. They should be community champions. As a result, it is vital that they have the trust of the electorate.

7.2 The Government considers there should be consequences where Councillors fall short of behaviour expected of anyone in a free, inclusive, tolerant society that respects individuals and society generally where this has led to enforcement action against an individual.

8. The current legal position regarding Disqualification Criteria:

8.1 Under Section 80 of the Local Government Act 1972, a person is disqualified from standing as a candidate or being a member of a local authority if they:

- Are employed by the local authority
- Are employed by a company which is under the control of a local authority
- Subject to bankruptcy orders
- Have, within 5 years before being elected, or any time since being elected,

been convicted in the UK of any offence and have received a sentence of imprisonment (suspended or otherwise) for a period of not less than 3 months without the option of a fine.

- Are disqualified under Part III of the Representation of the People Act 1983
- Are employed under the direction of various local authority committees, boards or the Greater London Authority or
- Are a teacher in a school maintained by a local authority.

9. The Governments' new Proposals:

9.1 The Government considers that anyone who is subject to the sex offenders 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.

9.2 The Government believes that Anti-Social behaviour blights people's lives and can leave victims feeling powerless. As a result, the Government considers that individuals who are subject to 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.

9.3 It is proposed that the period of time for which they would be barred would end once they are no longer subject to the injunction or Order.

9.4 The proposals in this consultation would not apply retrospectively, i.e. any incumbent member who is on the sex offenders register or subject to a Civil Injunction or Criminal Behaviour Order at the time the changes come into force would not be affected. They would however be prevented from standing for re-election after the changes come into force.

10. How does the decision contribute to the Council's Corporate Plan?

10.1 Good governance contributes to the Council's purpose of a "Well Run Council".

11. What risks are there and how can they be reduced?

11.1 There are no risks identified with this report.

12. What is the impact of the decision on equality and diversity; health and wellbeing; safeguarding children, young people and vulnerable adults, community safety and the environment?

12.1 The Government's proposals if enacted would afford better protection to children, young people and vulnerable adults.

13. Are there any other options?

13.1 Obviously members are at liberty to propose any other alternative they consider appropriate as part of the consultation process.

Baan AL-Khafaji

City Solicitor & Monitoring Officer

Local Government (Access to Information) Act 1972 (as amended)

Background papers used in compiling this report:-

The Department for Communities and local Government's Consultation on updating disqualification criteria for local authority members September 2017.

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