

REPORT TO	ON
Standards Committee	7 December 2017

September 2017



TITLE	REPORT OF
Disqualification Criteria for Councillors	Interim Corporate Governance Manager

Is this report confidential?	No
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1. PURPOSE OF THE REPORT

1.1 To consider the appropriate response to consultation currently being carried out by the Department for Communities and Local Government (DCLG) concerning additional criteria for the disqualification of Councillors and Elected Mayors.

2. RECOMMENDATIONS

2.1 That Members consider whether or not to support the DCLG proposal to introduce a new rule prohibiting any individual who is subject to an Anti-Social Behaviour Injunction, a Criminal Behaviour Order or who has been added to the sex offenders' register, from standing for election or holding office as a Councillor.

3. CORPORATE PRIORITIES

The report relates to the following corporate priorities:

Clean, green and safe		Strong and healthy communities	
Strong South Ribble in the heart of prosperous Lancashire		Efficient, effective and exceptional council	√

4. BACKGROUND TO THE REPORT

4.1 On the 18 September 2018 the Department for Communities and Local Government launched a formal consultation paper setting out the Government's proposals to update the criteria which disqualify individuals from standing for, or holding office as, a local authority member, directly elected mayor or a member of the London Assembly. The Consultation closes on the 8 December 2017.

4.2 The full text of the consultation paper is set out at **Appendix A**.

4.3 The consultation paper proposes extending the existing disqualification criteria to prohibit individuals standing for or holding office 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.

4.4 Any changes to the disqualification criteria would require changes to primary legislation and the proposed changes would not be enacted retrospectively. However, any affected individual would be prevented from standing for re-election after any changes came into force.

4.5 In launching the consultation Local Government Minister Marcus Jones said:

Councillors hold an important position of trust and authority in communities across England. We need to hold them to the highest possible standards.

The current rules are letting residents and councils down by not preventing people who should never be considered for such roles from standing for election.

The changes the government is proposing would help make sure anyone convicted of a serious crime, regardless of whether it comes with a custodial sentence, will not be able to serve as a councillor.

Current barriers to becoming a councillor include being employed by the authority, being subject to a bankruptcy order or being convicted of an offence resulting in a prison sentence.

These restrictions were implemented in 1972, before the sex offenders register or other non-custodial orders existed. The new proposed measures would bring rules much more into the present day by including the alternatives to a prison sentence also becoming a barrier to being a councillor.

They would apply to councillors and mayors in parish, town, local, county and unitary councils, combined authorities and the Greater London Authority.

It would mean a ban on standing to be elected or if once elected a councillor was subsequently convicted of a serious offence that resulted in an Anti Social Behaviour Injunction, a Criminal Behaviour Order or being on the sex offenders' register, being forced to step down.

The changes would better reflect rules governing standards of MPs, where members face suspension from the House for anything that contravenes the parliamentary code of conduct.

5. CURRENT CRITERIA

5.1 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 the local authority;
- are subject to bankruptcy orders;
- have, within 5 years before being elected, or at any time since being elected, been convicted in the UK, Channel Islands or Isle of Man of any offence and have received a sentence of imprisonment (suspended or not) for a period of not less than three months without the option of a fine;
- are disqualified under Part III of the Representation of the People Act 1983;
- are employed under the direction of various local authority committees, boards or the Greater London Authority; or
- are a teacher in a school maintained by the local authority.

5.2 Similar criteria apply to both directly elected mayors and members of the London Assembly.

6. SEXUAL OFFENCES

6.1 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.

6.2 The duration of the notification requirement period (ie how long a person is on the sex offenders register) is set out in the Sexual Offences Act 2003 and ranges from an indefinite period (for the most serious offences) to a period of 2 years or for the duration of the period of any conditional discharge.

6.3 Members will note that the Government does not propose including another type of civil order, the Sexual Risk Order, as this person would not have been convicted or cautioned of a sexual offence under the Sexual Offences Act 2003 and are not subject to notification requirements for registered sex offenders.

6.4. A Sexual Risk Order can be sought by the police against an individual who has not been convicted, cautioned etc. of an offence under Schedule 3 or Schedule 5 of the 2003 Act but who is nevertheless thought to pose a risk of harm to the public in the UK and/or children or vulnerable adults abroad and does require the individual to notify the police their name and their home address.

7. ANTI-SOCIAL BEHAVIOUR

7.1 Anti-Social behaviour can severely affect people's lives and a range of powers and have been developed to try and tackle the issues.

7.2 The Government is proposing that an individual subject to an anti-social behaviour sanction issued by the Courts (ie a Civil Injunction or a Criminal Behaviour Order) should be banned from standing for election or holding office. The period of time from which they would be barred would end once the order had expired.

7.3 However, there are a range of other Anti- Social Behaviour orders which can be issued by the police, local councils and social landlords which the Government does not propose are included ie

- Dispersal Powers (enables the police to move problem groups or individuals on)
- Community Protection Notice (designed to deal with particular problems which negatively affect the community)
- Public Spaces Protection Orders (to prevent anti-social behaviour in a public place)
- Closure Powers (to close premises which are being used to commit nuisance or disorder)

8. QUESTIONS AND SCOPE

8.1 The Consultation is open to everyone and the Government would particularly welcome responses to the specific questions below:

Question
Q1. Do you agree that an individual who is subject to the notification requirements set out in the Sexual Offences Act 2003 (i.e. is on the sex offenders register) should be prohibited from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor?
Q2. Do you agree that an individual who is subject to a Sexual Risk Order should <u>not</u> be prohibited from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or the London Mayor?
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 <u>only</u> 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?

9. WIDER IMPLICATIONS AND BACKGROUND DOCUMENTATION

9.1 Comments of the Statutory Finance Officer

There are no financial implications arising directly from this report.

9.2 Comments of the Monitoring Officer

There are no specific legal implications arising from this report which need bringing to members attention.

<p>Other implications:</p> <ul style="list-style-type: none"> ▶ Risk ▶ Equality & Diversity ▶ HR & Organisational Development ▶ Property & Asset Management ▶ ICT / Technology 	<p>There are no specific risk implications arising from this report</p> <p>There are no specific equality implications arising from this report</p> <p>There are no specific HR implications arising from this report</p> <p>There are no specific Property or asset management implications arising from this report</p> <p>There are no specific ICT implications arising from this report</p>
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10. BACKGROUND DOCUMENTS

DCLG Disqualification Criteria for Councillors and Mayors – September 2017

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