

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
MONITORING OFFICER	AUDIT AND STANDARDS COMMITTEE	16 NOVEMBER 2017	6
DCLG CONSULTATION ON DISQUALIFICATION CRITERIA FOR COUNCILLORS AND MAYORS			

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

SUMMARY

The Department for Communities and Local Government is consulting on proposals to update criteria disqualifying individuals from standing for, or holding office as a local authority member, 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.

Any changes to the disqualification criteria would require changes to primary legislation. The proposed changes would not act retrospectively.

RECOMMENDATION

1. To consider the consultation and consider whether the committee wish to respond to the consultation.

SUMMARY OF PREVIOUS DECISIONS

None.

CORPORATE PRIORITIES

Spending your money in the most efficient way to achieve excellent services (Value for Money)	
Delivering the services that customers expect of an excellent council (Clean and Green)	√
Working with all partners (Vibrant Economy)	
To make sure Fylde continues to be one of the most desirable places to live (A Great Place to Live)	
Promoting Fylde as a great destination to visit (A Great Place to Visit)	

REPORT

1. Councillors take strategic decisions that affect the lives of their residents. They decide how best to use taxpayers' money and manage local authority resources, including property, land and assets. They also 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. It is vital, therefore, that they have the trust of the electorate.
2. The Government considers that there should be consequences where councillors fall short of behaviour of the behaviour expected of anyone in a free, inclusive and tolerant society that Existing legislation prevents individuals.
3. Existing legislation prevents individuals standing 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.
4. The Government considers that the law should be updated to reflect new options which exist to protect the public and address unlawful and unacceptable behaviour.
5. The consultation proposes 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.
6. For the purposes of the consultation, 'local authority member' also extends to directly-elected mayors and co-opted members of authorities and 'local authority' means:
 - a. A county council
 - b. A district council
 - c. A London Borough council
 - d. A parish council
7. Currently, 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:
 - a. Are employed by the local authority;
 - b. Are employed by a company which is under the control of the local authority;
 - c. Are subject to bankruptcy orders;
 - d. 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;
 - e. Are disqualified under Part III of the Representation of the People Act 1983;
 - f. Are employed under the direction of various local authority committees, boards or the Greater London Authority; or
 - g. Are a teacher in a school maintained by the local authority.
8. 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. The period of time for which they would be barred would end once they were no longer subject to these notification requirements.
9. 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. 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 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.

10. 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. The period of time for which they would be barred would end once they were no longer subject to the injunction or Order.
11. The proposals in the consultation would not apply retrospectively, i.e. any incumbent local authority 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.
12. Such individuals would of course be prevented from standing from re-election after the changes came into force.
13. The consultation asks the following questions;
 - a. 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?
 - b. 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?
 - c. 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?
 - d. Do you agree that being subject to a Civil Injunction or a Criminal Behaviour Order should be the only anti-social behaviour-related reason why an individual member 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?
 - e. Do you consider that the proposals set out in the consultation paper will have an effect on local authorities discharging their Public Sector Equality Duties under the Equality Act 2010?
 - f. Do you have any further views about the proposals set out in the consultation paper?
14. The consultation closes at 5pm on Friday 8 December 2017.

IMPLICATIONS	
Finance	None arising from this report
Legal	None arising from this report
Community Safety	None arising from this report
Human Rights and Equalities	The proposals in the consultation paper have not been subject to an impact assessment by the Government at this stage, so it is not possible to be conclusive about any impact of their being eventually adopted. However, on the face of it, the proposals appear to be compatible with human rights and equalities legislation.
Sustainability and Environmental Impact	None arising from this report
Health & Safety and Risk Management	None arising from this report

LEAD AUTHOR	CONTACT DETAILS	DATE
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BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Document name		Council office or web address

Attached documents

1. DCLG Publication – Disqualification criteria for Councillors and Mayors: Consultation on updating disqualification criteria for local authority members