

**Report to:** Governance Committee

**Date of meeting:** 14 November 2017

**By:** Assistant Chief Executive

**Title:** Consultation on the disqualification criteria for councillors

**Purpose:** To consider the proposed response to the Department for Communities and Local Government consultation on the disqualification criteria for councillors

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## **RECOMMENDATIONS**

**The Governance Committee is recommended to approve the response to the Department for Communities and Local Government consultation on the disqualification criteria for councillors as set out in paragraph 1.3 of this report.**

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### **1 Background Information**

1.1 The Department for Communities and Local Government has issued a consultation document regarding the disqualification criteria for local authority members. A copy of the consultation document is attached at Appendix 1 of this report. The current disqualification criteria were established over 40 years ago and are set out in the Local Government Act 1972. Under these criteria 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.

1.2 The consultation proposes that the current criteria should be updated to reflect new options which exist to protect the public and to address unlawful and unacceptable behaviour by elected members. In summary it is proposed 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.

1.3 The proposed response to the questions set out in the consultation document are as follows.

**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?

Proposed response: Yes

**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?

Proposed response: No. We think that an individual who is subject to a Sexual Risk Order 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. There is a two part test when applying for a Sexual Risk Order; firstly it is necessary to prove an act of a sexual nature to the criminal standard and then, secondly, the court must be satisfied that it is necessary to make an order to protect children or vulnerable adults from harm. It is therefore illogical to exclude such individuals from the disqualification criteria given that elected members have access to sensitive personal information on vulnerable people.

**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?

Proposed response: Yes

**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?

Proposed response: Yes

**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?

Proposed response: We have no evidence that the proposals would have an effect on the County Council discharging its 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?

No.

## **2 Conclusion and reasons for the recommendations**

2.1 The Governance Committee is recommended to approve the response to the Department for Communities and Local Government consultation (Appendix 1) on the disqualification criteria for councillors as set out in paragraph 1.3 of this report.

**PHILIP BAKER**  
**Assistant Chief Executive**