

**Manchester City Council
Report for Resolution**

Report to: Standards Committee – 2 November 2017

Subject: Consultation on Updating Disqualification Criteria for Local Authority Members

Report of: City Solicitor

Summary

To seek the Standards Committee's comments on the consultation paper issued by the Department for Communities and Local Government ('DCLG').

Recommendations

1. That the Committee note the report.
 2. That the Committee is invited to provide comments on the six specific questions in the consultation paper as well as on the consultation generally.
 3. That the Committee agree the Monitoring Officer in consultation with the Chair of the Committee draft a response to the consultation paper taking any such views into account.
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Wards Affected: All

Financial Consequences for Revenue Budget

None directly.

Financial Consequences for the Capital Budget

None directly.

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Background documents (available for public inspection): None

1.0 Background

- 1.1 DCLG is currently consulting on proposals to update the criteria that bar individuals from standing for, or holding office as a local councillor or directly-elected mayor. A copy of the consultation can be read via the following link:-
- https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/645454/Disqualification_criteria_for_councillors_and_mayors.pdf
- 1.2 Currently individuals cannot stand for or hold office as a local authority member if they have within the previous five years or since their election been convicted of an offence that carries a prison sentence of at least three months without the option of a fine and whether that sentence is suspended or not.
- 1.3 The Government is proposing to amend the disqualification criteria so that anyone convicted of a serious crime regardless of whether it comes with a custodial sentence will not be able to serve as a councillor. Individuals will be banned from standing for 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 ('the 2014 Act '); or
 - a Criminal Behaviour Order made under section 22 of the 2014.
- 1.4 The new rules would apply to councillors and mayors in parish, district, county and unitary councils, London Boroughs and the Greater London Assembly. The proposed changes will not be retrospective.
- 1.5 The consultation follows previous examples where the current rules have proved to be ineffective, the highest profile case being a parish councillor who was convicted of child pornography offences but who was not disqualified from holding office as their sentence did not meet the three month threshold (they received a community penalty). The parish councillor refused to resign and the council had no mechanism to remove them from office.
- 1.6 Separately at the beginning of September 2017 it was reported that Thurrock Council had written to the Communities Secretary to request legislation for a new 'Right to Recall' councillors in the event of significant conduct or ethical breach, similar to that put in place for Members of Parliament by the Recall of MPs Act 2015. The proposals suggested by Thurrock Council are that should a councillor fall foul of an agreed set of criteria such as not attending meetings, conviction of a crime or breaching their authority's members code of conduct voters would have the choice to recall their representative and go to the ballot box to choose another candidate.
- 1.7 Members will be aware that there has been considerable discussion that the Localism Act 2011 changes to the standards regime which abolished the Standards Board for England removed most of the meaningful sanctions which could previously have been imposed following findings of poor

Councillor conduct. Local authorities are no longer able to suspend or disqualify councillors who breach their authority's members' code of conduct. Provided they do not commit a serious criminal offence members can remain in office until the electorate have a chance to remove them at the next election. The consultation does not touch on these issues and has been criticised in some quarters as being a missed opportunity.

- 1.8 The Committee is asked to consider whether the Council should respond to the DCLG consultation and if so provide comments on the six questions in the consultation paper which are set out below:-

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?

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?

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?

The Committee is also asked to consider if there are any other points which it feels ought to be reflected in the response to the consultation.

- 1.9 The closing date for comments on the consultation is 8 December 2017.

Recommendations

1. That the Committee note the report.
2. That the Committee is invited to provide views on the consultation paper.
3. That the Committee agree the Monitoring Officer in consultation with the Chair of the Committee draft a response to the consultation paper taking any such views into account