

**Manchester City Council
Report for Resolution**

Report to: Standards Committee – 21 March 2019

Subject: Consultation outcome on Updating Disqualification Criteria for Local Authority Members

Report of: City Solicitor

Summary

To provide an overview of the responses to the consultation on updating disqualification criteria for local authority members including the Government's response.

Recommendation

That the Committee notes the report.

Wards Affected: All

Financial Consequences for Revenue Budget: None.

Financial Consequences for the Capital Budget: None.

Implications for:

Antipoverty	Equal Opportunities	Environment	Employment
No	No	No	No

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Background documents (available for public inspection):

None

1 Background

- 1.1 The Department for Communities and Local Government (DCLG) (now the Ministry of Housing, Communities and Local Government (MHCLG)) consulted on proposals to update the disqualification criteria that bar individuals from standing for, or holding office as, a local councillor or directly elected mayor. The consultation ran from 18 September 2017 to 8 December 2017.
- 1.2 Currently individuals cannot stand for or hold office as a local authority member if they have within the five years prior to being elected or at any time since their election been convicted in the United Kingdom, the Channel Islands or the Isle of Man of any offence and as a result received a prison sentence (whether suspended or not) of at least three months without the option of a fine.
- 1.3 The consultation sought views on whether individuals should, or 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 if they are subject to:
 - The notification requirements in the Sexual Offences Act 2003
 - A Sexual Risk Order
 - A civil injunction under section 1 of the Anti-Social Behaviour, Crime and Policing Act 2014
 - A Criminal Behaviour Order made under section 22 of the Anti-Social Behaviour, Crime and Policing Act 2014
- 1.4 A report on the consultation was brought to the Committee on 2 November 2017. The Committee commented in relation to the consultation questions and agreed that the Monitoring Officer, in consultation with the Chair, would produce a response to the consultation. A copy of the Council's response can be found in the Appendix to this report.
- 1.5 A copy of the consultation paper can be found via the following link:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/645454/Disqualification_criteria_for_councillors_and_mayors.pdf

A summary of the consultation responses, including the Government's response, can be found via the following link:

<https://www.gov.uk/government/consultations/disqualification-criteria-for-councillors-and-mayors>.

2 Response to the Consultation

- 2.1 The consultation posed six questions regarding Sexual offences, Anti- social behaviour and the Public Sector Equality Duties under the Equality Act 2010.

Around 178 responses were generated from councils, membership organisations and individuals. The questions and a summary of the responses are as follows:

- 2.2 **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?**
- 2.3 The majority of respondents agreed with the proposal. The Government's response was that where an individual who is subject to the notification requirements set out in the Sexual Offences Act 2003 they should be barred 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. The disqualification period would end once they were no longer subject to these notification requirements.
- 2.4 **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?**
- 2.5 The responses received to this question were mixed, as a Sexual Risk Order is not necessarily the result of a conviction, but where individuals are deemed by a court to pose a risk of harm to the public and/or children or vulnerable adults abroad. In its response, the Government stated that it believed that individuals who are subject to a Sexual Risk Order have not modelled the behaviour and values expected of those elected into public office, and should be prohibited from standing for election, as a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor. The disqualification period would end once they were no longer subject to these notification requirements.
- 2.6 **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?**
- 2.7 By way of context, the above orders are issued by the court, rather than the Police or local authority, and relate to an individual, rather than a restriction in respect of a location or premises. Although the majority of respondents were in favour of the proposal, there were concerns that individuals who had participated in peaceful protest and issued with a Civil Injunction would then be disqualified from local elections. The Government's response was that the right of a local councillor to participate in a peaceful protest where they are representing the views of their electorate should be supported. However, the

Government further stated that a Civil Injunction is only issued by the courts in response to anti-social behaviour, defined in the legislation as behaviour which causes harassment, alarm or distress, and that such behaviour should not be part of a peaceful protest. The Government considered that an individual who is subject to an anti-social behaviour sanction issued by the court as specified in paragraph 2.6 above should be barred from standing for election as a member of a local authority, directly elected mayor, or member of the London Assembly. The disqualification period would end once they were no longer subject to the Injunction or Order.

- 2.8 **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?**
- 2.9 The responses to this question were mixed with 52% of respondents who agreed with this proposal. The Government's response was the same as that referred to in paragraph 2.7 above.
- 2.10 **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?**
- 2.11 Some 49% considered that the proposals set out in the consultation would not have an effect on local authorities discharging their Public Sector Equality Duties under the Equality Act 2010. Some respondents expressed concern that the proposal would affect the equality duties and were discriminatory in that they singled out individuals adversely which does not affect other groups, and for reasons which do not relate to their conduct as councillors.
- 2.12 In response to some of the concerns raised, the consultation report states that the Government's Equality Impact Assessment on the proposed changes to the Disqualification Criteria for Councillors and Mayors noted that, as more men rather than women are subject to Sexual Risk Orders and the notification requirements set out in the Sexual Offences Act 2003, there is a potential indirect impact on men in relation to these proposed policy changes. The Assessment concludes that were such an impact to be found to exist, there would be countervailing public interest considerations. Further, the application of the proposed policy changes will apply to people who share the protected characteristics listed under the Equality Act 2010, and those who do not. The Government did not consider that the proposals would have an effect on local authorities discharging their Public Sector Equality Duties under the Equality Act 2010.
- 2.13 **Q6 This question asked whether there were any further views about the proposals set out in the consultation.**
- 2.14 The consultation report stated that responses to this question related to

information that has been covered elsewhere in the report or related to issues which were out of scope of the consultation.

3 Next steps

- 3.1 Any changes to disqualification criteria for a member of a local authority, mayor of a combined authority, member of a London Assembly or London Mayor will require changes to primary legislation. The Government will look to identify a suitable legislative opportunity when parliamentary time allows.

4 Recommendation

- 4.1 It is recommended that the Committee notes the report.