

LGA submission to the consultation on disqualification criteria for councillors and mayors

November 2017



About the Local Government Association

The Local Government Association (LGA) is the national voice of local government. We work with councils to support, promote and improve local government. We are a politically-led, cross-party organisation, which works on behalf of councils to ensure local government has a strong, credible voice with national government.

We aim to influence and set the political agenda on issues that matter most to councils so they are able to deliver local solutions to national problems. The LGA covers every part of England and Wales, supporting local government as the most efficient and accountable part of the public sector.

Key messages

The LGA supports the objective of ensuring the highest standards of integrity and conduct among local councillors and mayors. As the representative organisation for local government, the LGA works with member organisations and councillors to promote conduct and leadership that is in line with the seven principles of standards in public life.

We are therefore supportive of the intention to take measures that help prevent public confidence in elected officials from being undermined. However, any new measures should apply equally to all elected representatives as well as to Members of the House of Lords.

It is not clear why the proposals in the consultation apply only to local councillors as the Government provides no rationale for this. If Government believes that it is in principle unacceptable for individuals on the sex offenders register, or who are subject to an anti-social behaviour order issued by a court, to hold elected office, then this should apply equally to Police and Crime Commissioners, Parliamentary candidates and Members of both Houses of Parliament, as well as to councillors. Conversely, if Government believes that there are particular reasons or risks pertaining to local councillors which do not apply more widely, it should say what these are. Uneven standards are unjustifiable and risk damaging the reputation of Parliament

Councillors are already subject to more stringent disqualification criteria than Members of Parliament. Individuals who have received a prison sentence of three months or more in the five year period before the election are barred from standing as a councillor, or must stand down if convicted after their election. The equivalent provision barring an individual from standing for or sitting in Parliament applies if they are subject to a current conviction to be imprisoned for more than a year.

Disqualification standards should be the same for **all** elected officials, and – despite our support for some of the measures in this consultation – we do not

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support the creation of further discrepancies in the regimes applying to local and national politicians.

In terms of the proposals themselves, freedom of expression and the right to take part in our elections are a fundamental part of the democratic values that our country holds dear. The need to maintain public confidence in elected officials must be balanced with the need to avoid measures which are unjustifiably restrictive or could be open to abuse.

While we are supportive of some of the measures in the consultation (specifically the proposal to disbar individuals on the sex offenders register) we are concerned at the lack of information put forward to support the wider proposals. Removing the rights of individuals to participate in our democratic process requires more justification than Government has provided in its consultation document.

In particular, we do not believe that Government has provided sufficient justification for disqualification of individuals who are subject to an anti-social behaviour sanction that has been issued by a court.

There are many different types of anti-social behaviour. The broad categorisation and approach proposed here risks including individuals or councillors who may have been involved in what many people would see as legitimate protests, rather than the type of anti-social behaviour that blights lives, which is the limited basis Government has cited. We are extremely concerned that this measure could be open to abuse and therefore do not support it.

Further detail

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 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?

The LGA recognises that the inability to require individuals who have been placed on the sex offenders register to stand down from their local elected office has undermined public confidence in local government. The conduct of a person whose behaviour has caused them to be placed on the register clearly falls unacceptably short of the standards required of our elected representatives; additionally an individual's continued presence in a public facing role could present a safeguarding risk.

We therefore support the proposal that an individual who is subject to the notification requirements set out in the Sexual Offences Act 2003 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.

However, this disqualification criteria should also apply to Police and Crime Commissioners, Parliamentary candidates and Members of both Houses of Parliament.

In regard to individuals who are subject to a sexual risk order, we disagree that

people subject to an order should not be disqualified. Individuals who are subject to a sexual risk order should also be disqualified from seeking or holding office, on the basis that they could also pose a safeguarding risk and undermine public confidence. However, again we reiterate that this disqualification should be applied to Police and Crime Commissioners, Parliamentary candidates and Members of both Houses of Parliament.

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?*

The LGA does not support this proposal. We do not think that there should be blanket disqualification criteria applying to any individual subject to a civil injunction or criminal behaviour order.

We believe that there is a clear risk that individuals who have been involved in persistent but non-violent protest (particularly in the environmental space) could be subject to these measures, thereby preventing them from seeking or holding elected office despite the fact they may have been protesting a cause that has significant local support. This would in itself be a serious infringement of local democratic processes, but we are further concerned that the criteria could be abused by political opponents seeking to have these sanctions imposed where is disagreement on local issues.

It is possible that there are some specific categories of anti-social behaviour – such as hate crime – for which there may be justification for excluding individuals found guilty of them from the democratic process. But again, we believe that Government has failed to provide a strong enough rationale or sufficiently describe what the issue is that it is trying to address, with the result that the proposal is far too wide ranging and not one that the LGA can support.

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?*

It is not clear to us why the proposals in this consultation should have an impact on local authorities discharging their public sector equality duties; or that it should be a consideration if they did. Either the proposals are justifiable in themselves, or they aren't.

Q6. *Do you have any further views about the proposals set out in this consultation paper?*

As set out above, we are unsure of the rationale for applying this criteria only to individuals 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.

Any new disqualification criteria arising from this consultation should be applied equally to Police and Crime Commissioners, Parliamentary candidates and

Members of both Houses of Parliament. The already unequal level playing field applying at local and national level should not be distorted any further.

We would also welcome clarity on how any changes to disqualification criteria would be enforced, and specifically how individuals who are on the sex offenders register or subject to a sexual risk order would be identified, recognising that there is no power for councils to impose a DBS check on individuals standing for election.