

The Local Government (Disqualification) Act 2022

Report of the County Solicitor (Interim)

Recommendation:

That the Committee be asked to consider and note the new legislation regarding the updated disqualification criteria for Councillors.

Summary

The Local Government (Disqualification) Act 2022 updates the disqualification criteria for local authority Members to explicitly disqualify individuals who are subject to relevant notification requirements or orders due to sexual offences from standing for or remaining in office.

1. Introduction and Background

- 1.1. The Local Government (Disqualification) Act 2022 was given Royal Assent on 28 April 2022 and came into force on 28 June 2022. It makes provision about the grounds on which a person is disqualified from being elected to or holding certain positions in local government in England.
- 1.2. The previous disqualification criteria for Councillors are set out in various legislation including The Local Government Act 1972. Regarding criminal activity not related to election practices, a person is disqualified from standing for election or holding public office if they have been convicted 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.
- 1.3. Previously, some offences like certain sexual offences which did not result in a custodial sentence therefore enabled Members to be able to retain their role if elected or run for election even if recently convicted.
- 1.4. In 2017, the Ministry of Housing, Communities and Local Government, now the Department of Levelling up, Housing and Communities, consulted on proposals to update the disqualification criteria for Councillors and Mayors to bring it into line with modern sentencing practice. The Committee submitted a response to the consultation
<https://democracy.devon.gov.uk/ieListDocuments.aspx?CId=159&MID=2119#A19239>
- 1.5. The Government published its response to the consultation in 2018. The Ministerial Foreword stated that the purpose of the proposals was to “update

the disqualification criteria for councillors and Mayors to bring it into line with both modern sentencing practice and the values and high standards of behaviours the electorate have a right to expect of the elected members that represent them.”

2. The Legislation

- 2.1 The legislation gives councils the power to prevent individuals from standing as a Councillor or Mayor at the point they trigger the disqualification criteria.
- 2.2 Its provisions include disqualifying a person who is subject to “any relevant notification requirements” or “a relevant order” (defined at Sections 2 and 3 of the legislation) and depending on the status of the relevant order or notification (to include time periods for appeal), from being elected or being a Member of a local authority or the Mayor for the area of a combined authority in England.
- 2.3 An individual can become subject to notification requirements by committing certain criminal acts or being issued with certain types of civil orders:
 - Being subject to sex offender notification requirements is an automatic consequence of being cautioned or convicted of sexual offences listed in Schedule 3 of the Sexual Offences Act 2003.
 - Sexual Harm Prevention Orders are civil orders intended to protect the public from offenders convicted of sexual or violent offences and result in notification requirements.
 - Notification Orders are civil orders intended to protect the public in the UK from the risks posed by sex offenders who have been convicted, cautioned, warned or reprimanded for sexual offences committed overseas. Notification Orders result in notification requirements.

3. Response

- 3.1 The Local Government Association (LGA) has supported the objective of the new legislation to ensure the highest standards of integrity and conduct in public life and agree that individuals convicted of sexual offences should be disqualified from running for public office or retaining their seat if already elected. However, it has expressed its concerns that the proposals will not include Police and Crime Commissioners and Members of the House of Commons and House of Lords. It has urged the Government to bring forward separate legislation to include Members of Parliament and Police and Crime Commissioners (PCCs).” and warned that “The Bill would create further discrepancies in the disqualification and standards regime that applies to local and national politicians.”
- 3.2 The Council will also ensure that pre-election information is updated with these new details and requirements.

This Report has no specific equality, sustainability, legal or public health implications.

[Electoral Divisions: All]

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<u>Background Paper</u>	<u>Date</u>	<u>File Reference</u>
Nil		