

Report to Standards Committee

Subject: Review of legislation and local government ethical standards

Date: 8 February 2018

Author: Director of Organisational Development and Democratic Services

1. Purpose of the Report

To inform Standards Committee of:

- government proposals to make legislative changes to extend the criteria for disqualification of Councillors; and
- the introduction of a new ministerial code

To invite Standards Committee to consider if it wishes to respond to the consultation exercise being conducted by the Committee on Standards in Public Life.

2. Background

Legislative changes to extend the criteria for disqualification of Councillors

2.1 Standards Committee will be aware that the current disqualification criteria are contained in section 80 of the Local Government Act 1972 and are summarised below.

A person is disqualified from standing as a candidate or being a member of a local authority if they:

- a) are employed by the authority or a company under the control of the authority, or under the direction of various local authority committees and boards;
- b) are subject to certain types of bankruptcy orders;
- c) have, within 5 years before being elected, or at any time since, been convicted of any offence and received a sentence of imprisonment (suspended or not) for a period of not less than three months without the option of a fine;

d) are disqualified under Part III of the Representation of the People Act 1983 [election offences]; or

e) are a teacher in a school maintained by the local authority.

2.2 The government considers that there should be consequences where Councillors fall short of the behaviour expected of anyone in a free, inclusive and tolerant society that respects individuals and society generally, and where this has led to enforcement action against that individual. Therefore the government has carried out a consultation exercise about proposals to add the following additional disqualification criteria in relation to sexual offences and anti-social behaviour. The consultation closed on 8 December 2017.

Sexual Offences

The government's proposals are set out in Appendix 1. The proposals seek to extend disqualification to cover offenders who are the subject of sex offender notification requirements but not extending it to persons who have not been either convicted or have not received a caution (which involves an admission of guilt) in relation to a sexual offence. The government does not propose to extend disqualification to persons who are subject to Sexual Risk Orders; the rationale for this is based on the fact that, in these circumstances there has been no conviction or admission of guilt by the person and, hence, disqualification could be argued to breach their human rights.

Anti-Social Behaviour

The government's proposals are also set out in Appendix 1. The proposals seek to extend disqualification to individuals subject to an anti-social behaviour issued by the courts in respect of civil injunctions and criminal behaviour orders following convictions. A similar rationale has been applied to narrow the disqualification to where a court process and findings have been applied to anti-social behaviour.

2.3 The intention of government is that the new provisions will not be applied retrospectively. This is in line with normal legislative practice, and will mean that existing councillors will not become disqualified under one of the new criteria during their current term of office but relevant sex offender notifications, injunctions and orders which were imposed prior to the new provisions coming into force, but which remain in effect, will act to disqualify the councillor from standing for re-election after the changes come into force.

2.4 The LGA has responded to the consultation on behalf of all local authorities and a copy of the submission is set out in Appendix 2 for information.

New ministerial Code

- 2.5 The Cabinet Office has issued a new Ministerial Code setting out the standards of conduct expected of ministers and how they should discharge their duties; a copy of which is attached at Appendix 3. The Standards Committee is asked to consider whether it wishes to compare these provisions with the Council's own Code of Conduct.

Review of local government ethical standards

- 2.6 The Committee on Standards in Public Life has launched a consultation exercise to inform its review of local government ethical standards. This consultation closes at 5pm on 18 May 2018. The terms of reference for the review are to:

- a) Examine the structures, processes and practice in local government in England for:
 - a. Maintaining codes of conduct for local councillors;
 - b. Investigating alleged breaches fairly and with due process;
 - c. Enforcing codes and imposing sanctions for misconduct;
 - d. Declaring interests and managing conflicts of interest; and
 - e. Whistleblowing
- b) Assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government;
- c) Make any recommendations for how they can be improved; and
- d) Note any evidence of intimidation of councillors, and make recommendations for any measures that could be put in place to prevent and address such intimidation.

A copy of the consultation paper is attached at Appendix 4.

3. Proposal

- 3.1 It is proposed that the Committee:
- notes the government's proposals to extend the criteria for disqualification of Councillors;
 - considers the Ministerial Code and determines whether any specific provisions ought to be considered for inclusion in the Council's Code of Conduct;
 - gives views on an appropriate response to the consultation being carried out by the Committee on Standards in public life; and

- delegates authority to the Monitoring Officer in consultation with the Chair of the Committee to prepare the final consultation response to the Committee on Standards in Public Life.

3.2 In view of the fact that consultation exercises are conducted by government and other organisations at times which may not enable consideration by Committee at scheduled meetings, it is proposed that a general delegation is given to the Monitoring Officer in consultation with the Chair of the Committee to respond to any relevant consultations.

4. Resource Implications

None.

5. Recommendations

It is recommended that the Committee:

- notes the government's proposals to extend the criteria for disqualification of Councillors;
- considers the Ministerial Code and determines whether any specific provisions ought to be considered for inclusion in the Council's Code of Conduct;
- provides views on an appropriate response to the consultation being carried out by the Committee on Standards in public life;
- delegates authority to the monitoring officer in consultation with the Chair of the Committees to prepare the final consultation response to the Committee on standards in public life; and
- delegates authority to the Monitoring Officer in consultation with the Chair of the Committee to respond to consultation documents within the remit of the Standards Committee.

6. Appendices

Appendix 1 – Summary of the Government's proposals.

Appendix 2 – LGA response to consultation.

Appendix 3 – Ministerial Code January 2018.

Appendix 4 - Committee on Standards in Public Life consultation.