

REPORT OF THE MONITORING OFFICER/CITY SOLICITOR

**TO
STANDARDS COMMITTEE**

**ON
29 SEPTEMBER 2022**

TITLE: LOCAL GOVERNMENT (DISQUALIFICATION) ACT 2022

RECOMMENDATIONS:

That the Standards Committee note the report.

EXECUTIVE SUMMARY:

The purpose of this report is to inform the Standards Committee of the new grounds for disqualification from being elected to, or being a member of, a local authority that have been introduced by the Local Government (Disqualification) Act 2022.

BACKGROUND DOCUMENTS:

None.

KEY DECISION: NO

DETAILS:

- 1. Background**
 - 1.1 The Local Government (Disqualification) Act 2022 (“the 2022 Act”), which came into force on 28 June 2022, introduces new grounds on which a person is

disqualified from being elected to, or holding, certain positions in local government in England, including the positions of councillor and directly elected mayor. This new disqualification relates to individuals who are subject to certain notification requirements or orders relating to sexual offences. While there was already a disqualification that applied to individuals who within five years before the day of election, or since their election, had been convicted in the United Kingdom, the Channel Islands or the Isle of Man of any offence and had been sentenced to imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine, this pre-existing disqualification would not necessarily apply to individuals subject to the aforementioned notification requirements or orders.

- 1.2 In 2017 the Government consulted on proposals to update the disqualification criteria for councillors, London Assembly members and elected mayors to bring them 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. In October 2018 the government issued a summary of responses to that consultation and gave a commitment to seek to legislate to ensure that the disqualification criteria would be amended to also include individuals who are subject to either the notification requirements set out in the Sexual Offences Act 2003 (commonly known as 'being placed on the sex offenders register') or a Sexual Risk Order made under section 122A of the Sexual Offences Act 2003.
- 1.3 The 2022 Act gives effect to the Government's commitment to legislate in this area. It expands the new disqualification criteria beyond the offences consulted upon in 2017 to ensure that they are specific and comprehensive in disqualifying individuals subject to the relevant notification requirements or relevant orders imposed in respect of sexual offences, and includes the territorial equivalents of such notification requirements and orders in the devolved nations (and the Isle of Man and Channel Islands) in the event that someone subject to such territorial equivalents subsequently stands for elected office in England.

2. The New Disqualification

- 2.1 The 2022 Act introduces a new disqualification, inserted as Section 81A of the Local Government Act 1972. Under that section a person is disqualified from being elected to, or being a member of, a local authority in England if the person is subject to:
 - a) any relevant notification requirements, or
 - b) a relevant order.
- 2.2 "Relevant notification requirements" means the notification requirements of Part 2 of the Sexual Offences Act 2003 (or equivalent requirements applying in the Channel Islands or the Isle of Man).
- 2.3 "Relevant order" means:

- a) a sexual harm prevention order under section 345 of the Sentencing Code;
 - b) a sexual harm prevention order under section 103A of the Sexual Offences Act 2003;
 - c) a sexual offences prevention order under section 104 of that Act;
 - d) a sexual risk order under section 122A of that Act;
 - e) a risk of sexual harm order under section 123 of that Act; or
 - f) certain equivalent legislation to the above applying in the devolved nations, the Channel Islands or the Isle of Man.
- 2.4 A person who is subject to any relevant notification requirements referred to at paragraph 2.2 above is not to be regarded as disqualified until:
- a) the expiry of the ordinary period allowed for making an appeal or application against the conviction, finding, caution, order or certification in respect of which the person is subject to the relevant notification requirements, or
 - b) if such an appeal or application is made, the date on which it is finally disposed of or abandoned or fails because it is not prosecuted.
- 2.5 Similarly, a person who is subject to a relevant order referred to at paragraph 2.3 above is not to be regarded as disqualified until:
- a) the expiry of the ordinary period allowed for making an appeal against the relevant order, or
 - b) if such an appeal is made, the date on which it is finally disposed of or abandoned or fails because it is not prosecuted.
- 2.6 The disqualification introduced by the 2022 Act does not operate retrospectively. Therefore, it does not disqualify a person who became subject to any relevant notification requirements or a relevant order before the 2022 Act came into force on 28 June 2022.
- 2.7 Consequential changes to the rules for administering elections have also been made (either by the 2022 Act itself or under secondary legislation), including to the prescribed consent to nomination form. Candidates are now required to declare when standing that they are not disqualified under the newly inserted Section 81A of the Local Government Act 1972.

3. Recommendation

3.1 The recommendation is set out at the beginning of this report.

KEY COUNCIL POLICIES: N/A

EQUALITY IMPACT ASSESSMENT AND IMPLICATIONS: N/A

ASSESSMENT OF RISK: There is no direct risk to the Council.

LEGAL IMPLICATIONS Supplied by: Provided by Shared Legal Service and set out in this report.

FINANCIAL IMPLICATIONS Supplied by: N/A

PROCUREMENT IMPLICATIONS Supplied by: N/A

HR IMPLICATIONS Supplied by: N/A

CLIMATE CHANGE IMPLICATIONS Supplied by: N/A

OTHER DIRECTORATES CONSULTED: None

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WARDS TO WHICH REPORT RELATES: All