
Ethics Committee

29 September 2022

Name of Cabinet Member:

N/A - Ethics Committee

Director Approving Submission of the report:

Director of Law and Governance

Ward(s) affected:

None

**Title: Local Government Association Briefing on Changes to Disqualification
Criteria for Councillors**

Is this a key decision?

No

Executive Summary:

The Terms of Reference of the Ethics Committee under the Constitution at Part 2E - Functions of Ethics Committee, paragraph 4 a) and i) are as follows:

The Ethics Committee will have the following terms of reference:-

- (a) Promoting and maintaining high standards of conduct by Elected Members and co-opted Members;...**
- (i) Considering any other matters which are relevant to the ethical governance of the Council, its Members or Employees.**

In light of the above, this report is to advise the Committee that the Local Government (Disqualification) Act 2022 came into force on 28 June. From this date, individuals subject to the notification requirements in the Sexual Offences Act 2003 (on the sex offenders register) or to Sexual Risk Orders, are disqualified from holding elected office or standing for election as councillors.

Recommendations:

The Ethics Committee is recommended to:

1. Note the content of the briefing released by the Local Government Association and the changes to the law.

List of Appendices included:

- A. The Local Government Association briefing on the Local Government (Disqualification) Act 2022, 4 August 2022:
<https://www.local.gov.uk/parliament/briefings-and-responses/local-government-disqualification-act-2022>

Other useful background papers can be found at the following web addresses:

None

Has it been or will it be considered by Scrutiny?

No

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

No

Will this report go to Council?

No

Report title: Local Government Association Briefing on Changes to Disqualification Criteria for Councillors

1. Context (or background)

- 1.2 The Local Government Association (LGA) has issued a briefing on the updates to the Local Government (Disqualification) Act 2022 (the “Act”).
- 1.3 The Act 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 such as Sexual Harm Prevention Orders and Sexual Risk Orders from standing for or remaining in office.
- 1.4 Previously a Councillor would be disqualified from standing for election or holding public office if they had been convicted of any offence and had received a sentence of imprisonment (suspended or not) for a period of no less than three months or more in the five-year period before the relevant election.
- 1.5 Recently new offences and sentencing regimes were implemented, meaning that some sexual offences, registration on the Sex Offenders Register and other offences such as anti-social behaviour do not result in a custodial sentence, eg they might require a notification or an Order may be made. Therefore, Councillors convicted of offences, which previously would have resulted in disqualification, were able to retain their role if elected or run for election even if recently convicted.
- 1.6 The Act updates the disqualification criteria so that sexual offences that had unintentionally fallen out of the scope of the disqualification criteria were brought back into scope.
- 1.7 The Act is not retrospective, meaning its disqualification will not apply to a person subject to any relevant notification requirements or a relevant order before 28 June 2022.
- 1.8 Candidates for election to local government must declare they are not disqualified from standing using prescribed 'Consent to Nomination' forms at nomination. The briefing highlights that it is a criminal offence to make a false statement on nomination papers.

2. Implications

- 2.1 Councillors convicted of sexual and other offences meeting the criteria of the Act **during their term of office** are automatically disqualified from being a Member of the Council. The wording at section 1 states the following:

A person is disqualified for being elected 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 Currently section 80 of the Local Government Act 1972 states that if an individual has been convicted and received a prison sentence (or suspended sentence) of three months or more in the five years before the election, they are unable to stand in the election and if they are in office, they are no longer a Member and must wait 5 years before standing again (ie they must step down). This applies to all offences of whatever nature and would include "Public Order" offences.

This '5 year rule' applies even if the prison (or suspended) sentence becomes "spent". This is because of section 7 (1)(d) of the Rehabilitation of Offenders Act 1974.

Conversely the disqualification criteria do not currently apply if 5 years have passed and the conviction is classed as "unspent".

As at the time of writing updates are awaited to section 80 of the Local Government Act 1972 in respect of the 5 year period in relation to the new disqualification criteria in the Act, namely how long a Member can be prevented from standing again and whether "spent" / "unspent" convictions are taken into account.

This issue will be brought back to the Ethics Committee again as and when more information is obtained.

3. Options considered and recommended proposal

The Committee are asked to:

1. Note the content of the briefing released by the Local Government Association and the changes to the law.

4. Results of consultation undertaken

- 3.1 There has been no consultation as there is no proposal to implement at this stage which would require a consultation.

4. Timetable for implementing this decision

- 4.1 Any actions arising from this report will be implemented as soon as possible.

5. Comments from Comments from Chief Operating Officer (Section 151 Officer) and Director of Law and Governance

5.1 Financial implications

There are no specific financial implications arising from the recommendations within this report.

5.2 Legal implications

There are no specific legal implications arising from this report. The issues referred to in this report will assist the Council in complying with its obligations under section 27 of the Localism Act 2011.

6 Other implications

None.

6.1 How will this contribute to the Council Plan (www.coventry.gov.uk/councilplan/)?

Not applicable.

6.2 How is risk being managed?

There is no direct risk to the organisation as a result of the contents of this report.

6.3 What is the impact on the organisation?

No direct impact at this stage.

6.4 Equalities / EIA

There are no public sector equality duties which are of relevance at this stage.

6.5 Implications for (or impact on) climate change and the environment

None

6.6 Implications for partner organisations?

None at this stage.

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Graham Clark	Lead Accountant – Business Partnering	Finance	20.09.22	20.09.22
Councillor S Nazir	Chair of Ethics Committee		20.09.22	20.09.22

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