

Disqualification for election to councils

Review of section 80 Local Government Act 1972

Purpose of report

For discussion and direction.

Summary

CLG has embarked on a high level review of the rules governing disqualification for election and holding office as a local authority member. This report outlines the scope of the review and the current rules set out in section 80 of the Local Government Act 1972, and seeks the views of the LGA Leadership Board.

Recommendation

The Leadership Board are invited to comment on the review.

Action

Officers to feed members' comments into the review team.

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Background

1. The rules governing disqualification for election and holding office as a member of a local authority are contained in Section 80 of the Local Government Act 1972. Following a ministerial commitment to review the current provisions, CLG has begun a high level review due to report by the end of December. CLG is seeking the views of the LGA, NALC, the Cabinet Office, the Ministry of Justice, the Department for Education and other appropriate stakeholders.

The current position

2. A person is disqualified from being, or being elected as, a member of a local authority if they are;
 - 2.1 an employee of that authority;
 - 2.2 a teacher in a school maintained by that authority, although not employed by it;
 - 2.3 the subject of a bankruptcy restrictions order or interim order;
 - 2.4 convicted in the UK, Channel Islands or Isle of Man within five years before the day of election, or since their election, and sentenced to imprisonment for not less than three months without the option of a fine;
 - 2.5 disqualified under Part III of the Representation of the People Act 1983 following conviction of corrupt electoral practices.
3. The Act as amended by section 194 of the Local Government and Housing act 1989 would also prevent an employee of a company under the control of a local authority from becoming a member but this provision was not commenced:

Scope of Review

4. The review will consider:

Disqualification on grounds of employment

- 4.1 Should (any) local authority employees be allowed to stand for election and if so, on what terms?
- 4.2 Should employees of companies under the control of a local authority, or undertaking council work on an outsourced basis, be similarly considered?

Item 5

- 4.3 The status of teachers and other staff at voluntary aided/foundation schools, academies and free schools.
- 4.4 Should employees be allowed to stand for election and resign if elected?

Disqualification on grounds of criminal convictions

- 4.5 Should convictions beyond the UK, Channel Islands or Isle of Man be included, and if so which?
- 4.6 Is the five year period within which a conviction would lead to disqualification right?
- 4.7 Should any non-custodial or other sentences be grounds for disqualification - eg ancillary orders or being named on the sex offenders register?

Process

- 4.8 Is the process for addressing invalid nominations before an election, or where elected members are found to be or are subsequently disqualified fit for purpose?
5. At the first meeting to discuss the review it was agreed that any amendments to the current provisions should be based on a number of core principles. These might include:-

Trust and reputation	Maintaining public trust in, and the reputation of, elected representatives, councils and the democratic process.
Influence	Ensuring that the rules on disqualification are appropriate to the influence of the individual.
Consistency	Ensuring a consistent approach across all holders of public office, including councillors, elected mayors, police and crime commissioners, MPs and MEPs.
Clarity	Ensuring that the rules around who may stand for election are clear and easy to find

Conclusion and next steps

- 6. CLG have invited initial thoughts in writing by 9 December. The Leadership Board's views are sought.

Financial Implications

- 7. No direct financial implications for the LGA.