

EAST HERTS COUNCIL

PERFORMANCE, AUDIT AND GOVERNANCE SCRUTINY
COMMITTEE– 21 NOVEMBER 2017

REPORT BY HEAD OF LEGAL AND DEMOCRATIC SERVICES

STANDARDS

WARD(S) AFFECTED: NONE

Purpose/Summary of Report

- This report is to seek Members views on a DCLG consultation on proposals to update the criteria that bar individuals from becoming or being a local councillor or directly-elected mayor. The purpose of this report is to ensure good governance within the Council.

RECOMMENDATIONS FOR PERFORMANCE, AUDIT AND GOVERNANCE:

That:

(A) the report be noted;

(B) Members consider whether the Monitoring Officer should respond to the Department for Communities and Local Government (DCLG) consultation on behalf of the Council and, if so, gives its view on the approach to take.

1.0 Background

1.1 Within its terms of reference the Performance Audit and Governance Committee has a function of “to promote and maintain high standards of conduct by Members and Co-Opted Members of the authority”. The Committee will therefore receive update reports from the Monitoring Officer on matters that relate to, or assist to govern, Member conduct.

2.0 DCLG Consultation

2.1 DCLG is currently consulting on proposals to update the criteria that bar individuals from becoming or being a local councillor or directly-elected mayor. Currently, individuals cannot stand for, or hold, office as a local authority member if they have, within the previous five years or since their election, been convicted of an offence that carries a prison sentence of at least three months without a fine and whether suspended or not. The consultation paper is attached as Essential Reference Paper B for ease of reference and can be viewed at the following link:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/645454/Disqualification_criteria_for_councillors_and_mayors.pdf

2.2 The Government is proposing to amend the disqualification criteria so that anyone convicted of a serious crime, regardless of whether it comes with a custodial sentence, will not be able to serve as a councillor. Individuals will be banned from standing for office if they are subject to:

- the notification requirements set out in the Sexual Offences Act 2003 (being on the sex offenders register);
- a civil injunction granted under s.1 of the Anti-social Behaviour, Crime and Policing Act 2014 (the 2014 Act); or
- a Criminal Behaviour Order made under s.22 of the 2014 Act.

The new rules would apply to councillors and mayors in parish, district, county and unitary councils, London boroughs, combined authorities and the Greater London Assembly. The proposed changes would not be retrospective. The closing date for comments on the disqualification criteria is 8 December 2017.

2.3 The consultation follows previous examples where the current rules have proved to be ineffective, the highest profile being a Saddleworth Parish Councillor who was convicted of child pornography offences but who was not disqualified from holding office as his sentence did not meet the three month threshold (he received a community penalty). The Parish Councillor refused to resign and the Council had no mechanism to remove him from office.

2.4 Separately at the beginning of September 2017 it was reported that Thurrock Council had written to the Communities Secretary to request legislation for a new 'Right to Recall' councillors in the event of significant conduct or ethical breach, similar to that put in

place for Members of Parliament by the Recall of MPs Act 2015. The proposals are that should a councillor fall foul of an agreed set of criteria – like not attending meetings, conviction of a crime or breaching the members code of conduct – voters would have the choice to recall their representative and go to the ballot box to choose another candidate.

2.5 Members will be aware that the Standards Committee has often discussed that the Localism Act 2011 changes to the standards regime which abolished the Standards Board for England, removed most of the meaningful sanctions which could previously have been imposed following findings of poor Councillor conduct. Local authorities are no longer able to suspend or disqualify councillors who bully, are rude, disclose confidential information or bring their own authorities and local government generally into disrepute. Provided they do not commit a serious criminal offence, members can remain in office until the electorate have a chance to remove them at the next election. The consultation does not touch on these issues and has been criticised as being a missed opportunity.

2.6 The Committee is asked to consider whether the Council should respond to the DCLG consultation and, if so, specifically the following points:-

- Should the proposed additions to the disqualification criteria be supported?
- How should the Council respond to the six consultation questions, as set out in Appendix A?
- Should proposals for a right of recall, such as those proposed by Thurrock Council, be supported? If so, what limitations should be placed around this?
- Should the Council support the return of more meaningful sanctions, such as the ability to suspend or disqualify Councillors? If so, what limitations should be placed around this?
- Are there any other points that the Committee feel should be reflected in a response to the consultation?

Committee on Standards in Public Life (CSPL)

2.7 In its Annual Report and Forward Plan 2017/18, published in mid-July 2017, the CSPL said it “maintains a longstanding interest in local government standards, and regularly receives correspondence from members of the public expressing their concern about this issue”. The CSPL added that it was actively

conducting research and engaging with partners on this subject throughout 2016-17 and in its Forward Plan confirmed it will undertake a review of local government standards during 2017/18. The review will be based around a consultation to be launched in early 2018, with the findings and recommendations to be published later in 2018.

3.0 Implications/Consultations

Information on any corporate issues and consultation associated with this report are contained within **Essential Reference Paper A**.

Background Papers: None

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