



Ministry of Housing,  
Communities &  
Local Government

# Consultation on Updating the Disqualification Criteria for Councillors and Mayors

A summary of consultation responses and the Government  
response



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October 2018

ISBN: 978-1-4098-5341-1

# Ministerial Foreword

The Government consulted on proposals to update the disqualification criteria for councillors and Mayors to bring it 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.

The Government considers there should be consequences where councillors, mayors and London Assembly members fall short of the behaviour expected in an inclusive and tolerant society. Where behaviour has led to a conviction or enforcement action resulting in an individual being subject to one or more of the following: the notification requirements in the Sexual Offences Act 2003; a Sexual Risk Order; a Civil Injunction; a Criminal Behaviour Order we will seek to legislate to ensure that they are disqualified from standing for office as local authority members or Mayors.

As a result, councils across England will have the power to prevent individuals from standing as a councillor or Mayor at the point they trigger the revised disqualification criteria. These proposals will not apply retrospectively.

I am grateful to all those individuals, councils and organisations who took the time to respond to this consultation.

Elected members play a crucial role in town halls across the country, and are the foundations of local democracy. They are community champions, and have a leading role to play in building a better society for everyone.

**Rishi Sunak**  
**Minister for Local Government**

# Contents

<b>Introduction</b>	<b>5</b>
<b>Overview</b>	<b>6</b>
<b>Consultation responses</b>	<b>7</b>
Sexual offences	7
Anti-social behaviour	10
Public Sector Equality Duties under the Equality Act 2010	13
Other views	14
<b>Next steps</b>	<b>15</b>
<b>List of respondents</b>	<b>16</b>
<b>Appendix 1: summary of current disqualification criteria</b>	<b>20</b>

# Introduction

Local authority members and directly elected Mayors are the heartbeat of local democracy in communities across England. They are entrusted by the electorate to make important decisions for the communities they represent, and on behalf of vulnerable groups, including children and young people. They also have a broad role representing their communities, engaging with local MPs and ensuring the views of their constituents are heard.

The Government believes the proposed revised criteria better reflects 21<sup>st</sup> century sentencing practices. It will encourage continued public confidence in elected members, and signals the importance we attach to the conduct of elected members.

This consultation proposed updating the disqualification criteria in section 80 of the Local Government Act 1972, paragraph 9 of schedule 5B to the Local Democracy, Economic Development and Construction Act 2009, and section 21 of the Greater London Authority Act 1999 to prohibit those subject to the notification requirements (commonly referred to as 'being on the sex offenders register') and those subject to certain anti-social behaviour sanctions from being local authority members, London Assembly members or directly-elected mayors.

This consultation did not propose changing the disqualification criteria for Police and Crime Commissioners (PCCs). For the purposes of the consultation, 'local authority member' also extended to directly-elected mayors and co-opted members of authorities, and 'local authority' means:

- a county council
- a district council
- a London Borough council
- a parish council

The disqualification criteria in section 80 of the Local Government Act 1972, paragraph 9 of schedule 5B to the Local Democracy, Economic Development and Construction Act 2009, and section 21 of the Greater London Authority Act 1999 do not cover the Council of the Isles of Scilly or the Common Council of the City of London. Therefore, the consultation did not extend to these councils.

# Overview

The consultation on changes to the current disqualification criteria (summary details at Appendix 1) was published on 18 September 2017 and closed on 8 December 2017. Respondents were invited to reply by email or to post written responses to the Department for Communities and Local Government.

The consultation sought views on whether individuals should, or should not be, prohibited from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor if they are subject to:

- the notification requirements set out in the Sexual Offences Act 2003 (commonly referred to as 'being on the sex offenders register');
- a Sexual Risk Order;
- a civil injunction granted under section 1 of the Anti-Social Behaviour, Crime and Policing Act 2014; or
- a Criminal Behaviour Order made under section 22 of the Anti-social Behaviour, Crime and Policing Act 2014

This consultation was open to everyone. We particularly sought the views of individual members of the public, prospective and current councillors and those bodies that represent the interest of local authorities and councillors at all levels.

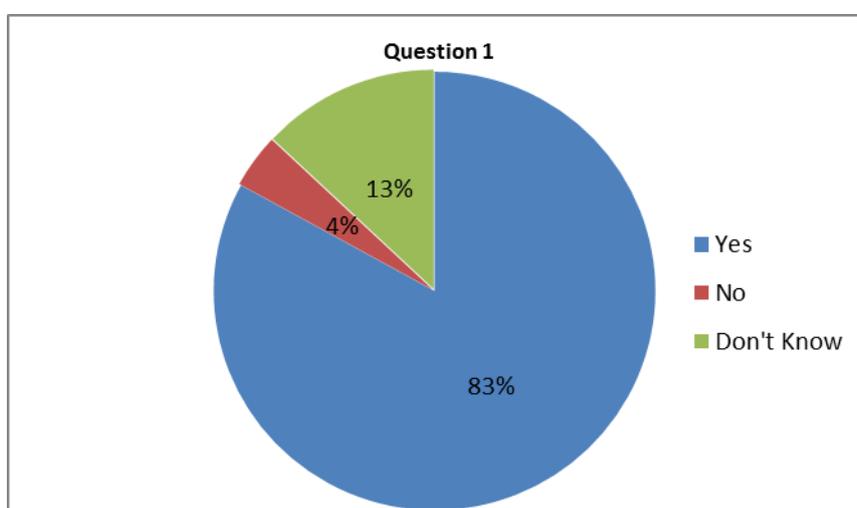
The consultation generated 178 responses, including from parish councils, district councils, London Councils, town councils, borough councils, county councils, membership organisations and individuals.

# Consultation responses

## Sexual offences

The two questions posed were as follows:-

**Q1: Do you agree that an individual who is subject to the notification requirements set out in the Sexual Offences Act 2003 (i.e. who is on the sex offenders register) should be prohibited from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor?**



There was strong majority of respondents (83%) in agreement, 4% against and 13% who didn't know. There were few additional comments on this question – those received were in the following vein:-

*"The Committee unanimously agreed that those on the Sex Offenders Register should be prohibited from standing for election". (response no 088)*

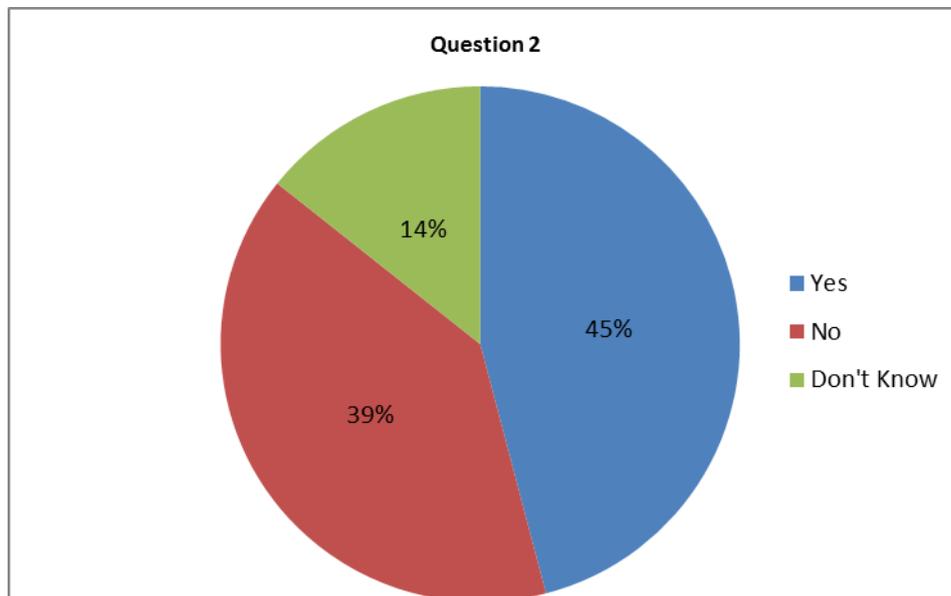
*"The overriding concern of this council in considering these proposals was the protection of children and vulnerable adults." (response no 153)*

### Government response

Having considered the responses received, the Government believes that where an individual who is subject to the notification requirements set out in the Sexual Offences Act 2003 they should be barred from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor.

Their disqualification period would end once they were no longer subject to these notification requirements.

**Q2: Do you agree that an individual who is subject to a Sexual Risk Order should not be prohibited from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor?**



With 45% of respondents answered yes (individuals should not be prohibited from standing) 39% answering no (i.e. they should be prohibited from standing) and 14% answering don't know, there is a less clear outcome from the consultation in respect of this question.

A Sexual Risk Order is not necessarily the result of a conviction, but individuals are subject to this Order because they are deemed by a court to pose a risk of harm to the public in the UK and/or children or vulnerable adults abroad.

Below is a selection of consultation responses received on this subject:-

*“those individuals subject to a Sexual Risk Order should also be prohibited from standing as they are still considered to pose a potential risk to the public, and may also become more exposed to situations to abuse their position of trust and take advantage” (response 009);*

*“a Sexual Risk Order is given to those who pose a risk of harm to the public and/or children or vulnerable adults. Elected councillors have access to sensitive and personal information” (Response 147).*

*“an individual who is subject to a Sexual Risk Order poses a safeguarding risk” (Response 163).*

*“Members were uncomfortable with someone who is the subject of such an Order holding office, particularly as this would seem to conflict with the corporate parenting responsibility that is part of every elected Member’s role. Members felt that residents would not want such individuals representing them.*

*It was acknowledged, however, that such individuals will not have been found guilty in a court of law and it could be potentially harmful to the democratic process to disqualify people from standing for election, or holding office, who had not committed any crime” (Response 85) .*

In response to the balance of consultation responses the Government believes that individuals who are subject to a Sexual Risk Order have not modelled the behaviour and values that befit the expectations of those whom we elect into public office, and they will not command the respect and confidence of their electorate.

### **Government response**

Having considered the responses received, the Government believes that where an individual is subject to a Sexual Risk Order, they should be prohibited from standing for election, as a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor.

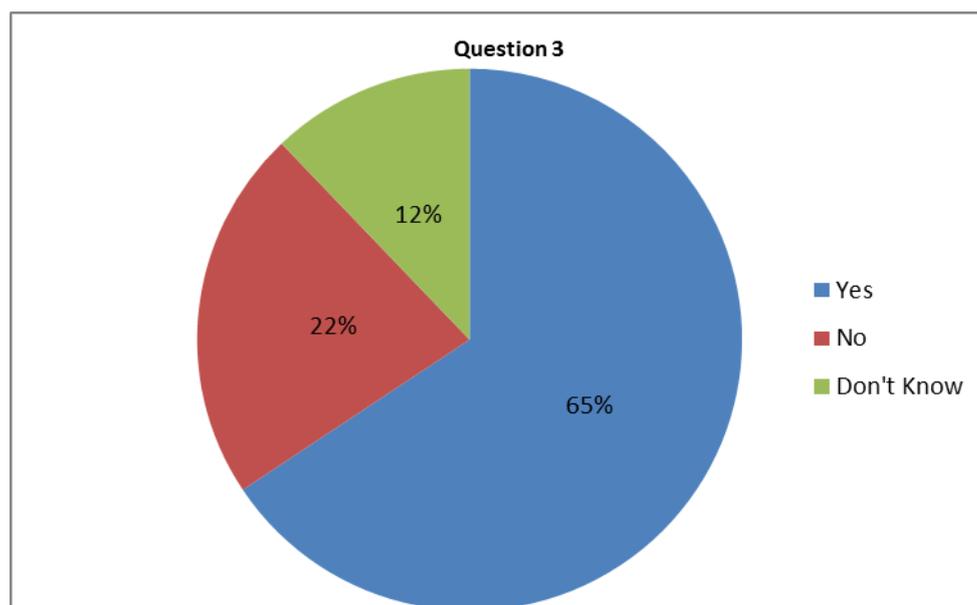
Their disqualification period would end once they were no longer subject to these notification requirements.

## Anti-social behaviour

Questions 3 and 4 related to anti-social behaviour.

**Q3. Do you agree that an individual who has been issued with a Civil Injunction (made under section 1 of the Anti-social Behaviour, Crime and Policing Act 2014) or a Criminal Behaviour Order (made under section 22 of the Anti-social Behaviour, Crime and Policing Act 2014) should be prohibited from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor?**

The two anti-social behaviour orders in question i.e. a Civil Injunction or a Criminal Behaviour Order are the only ones that relate to an individual (rather than, for example, restriction in respect of a location or premises) and crucially are issued by the court, rather than the Police or a local authority.



There were 65% of respondents who agreed with this proposal, 22% against and 12% didn't know. Below is a flavour of the responses received:-

*" We agree on the basis that the period of time for which they would be barred would end once they are no longer subject to the injunction or order." (response no125)*

*"...individuals who have been issued with a Civil Injunction or Criminal Behaviour Order should be prohibited from standing for election, or holding office" (response 009)*

*“...it would not be considered acceptable for people to stand for or hold office where they have been issued with certain Civil Injunctions and Criminal Behaviour Orders” (response 013)*

Whilst the majority of respondents were clearly in favour, there were concerns flagged up by some that individuals who had participated in peaceful protest and issued with a Civil Injunction would then be disqualified from local elections. The comment extracted below is representative of those views:-

*“We believe that there is a clear risk that individuals who have been involved in persistent but non-violent protest could be subject to these measures, thereby preventing them from seeking or holding elected office despite the fact they may have been protesting a cause that has significant local support.....”*

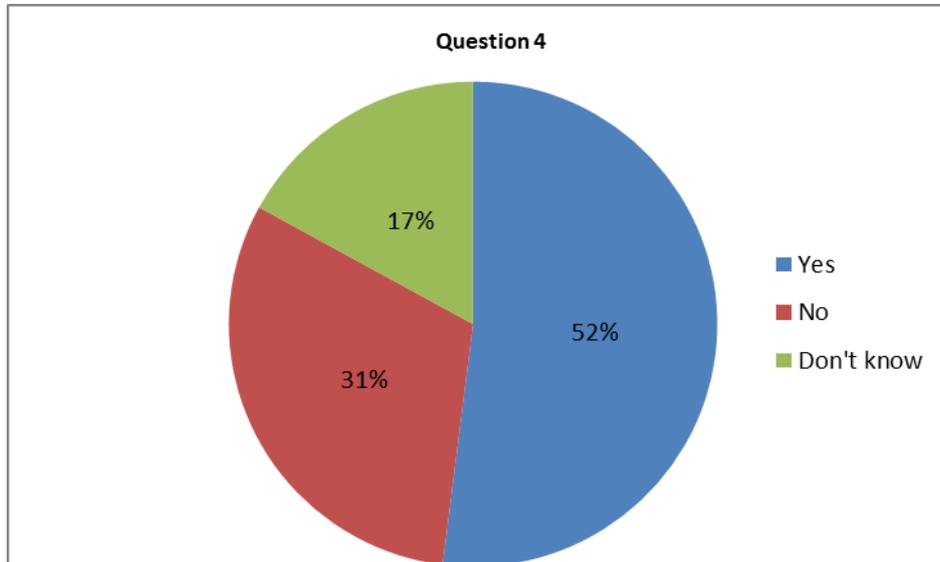
*It is possible that there are some specific categories of anti-social behaviour – such as hate crime – for which there may be justification for excluding individuals found guilty of them from the democratic process.....”*  
(response 103)

The Government supports the rights of a local councillor to participate in a peaceful protest where they are directly representing the views of their electorate. However as a Civil Injunction is only issued by the courts in response to anti-social behaviour, defined in the legislation as behaviour which causes harassment, alarm or distress, and such behaviour would have no place in a peaceful protest we believe this is a moot point.

### **Government response**

The Government considers that an individual who is subject to an anti-social behaviour sanction issued by the court, i.e. a Civil Injunction, (made under section 1 of the Anti-social Behaviour, Crime and Policing Act 2014) or a Criminal Behaviour Order (made under section 22 of the Anti-social Behaviour, Crime and Policing Act 2014) should be barred from standing for election, as a local authority member, directly-elected mayor or member of the London Assembly. Their disqualification period would end once they were no longer subject to the injunction or Order.

**Q4. Do you agree that being subject to a Civil Injunction or a Criminal Behaviour Order should be the only anti-social behaviour related reasons why an individual should be prohibited from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor?**



There were 52% of respondents who agreed with this proposal. The comments extracted below are representative of respondent's views:-

*"...we understand the reasoning behind the proposals, and believe that those appointed to public office should not have current "control" orders/injunctions in place, in respect of their behaviour, at the time they are seeking election. Our Members seek reassurance however, that orders which are no longer current (like spent convictions), will not prevent a person seeking office during a subsequent period of time.... (response no 127)*

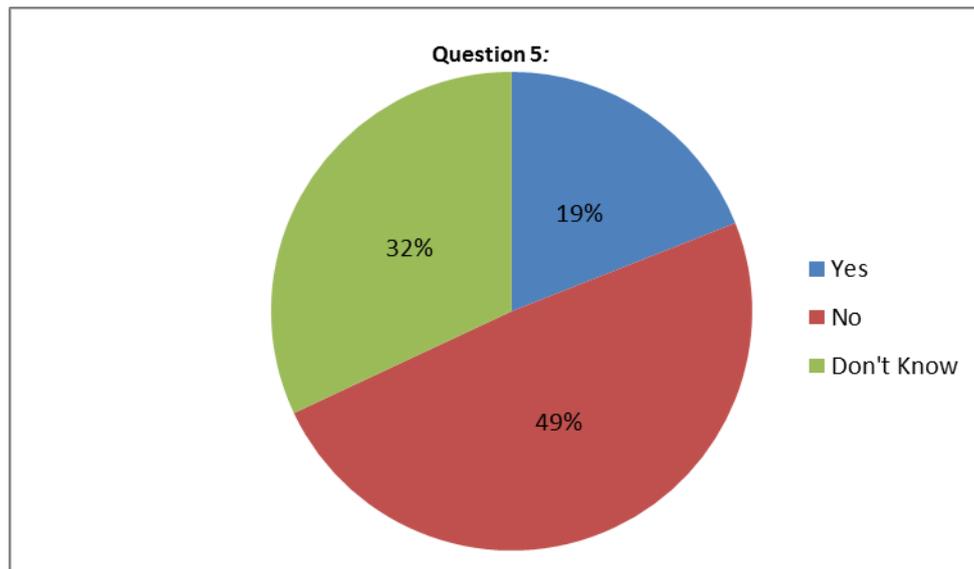
*"..The public quite rightly expect individuals within public service, whether elected representatives or officers, to demonstrate high standards of conduct. Individual failings can weaken confidence across the sector. Where an individual is named within a Notice or Order then they should also be prohibited from standing for election or holding office" (response no 160)*

### **Government response**

The Government considers that an individual who is subject to an anti-social behaviour sanction issued by the court, i.e. a Civil Injunction, (made under section 1 of the Anti-social Behaviour, Crime and Policing Act 2014) or a Criminal Behaviour Order (made under section 22 of the Anti-social Behaviour, Crime and Policing Act 2014) should be barred from standing for election, as a local authority member, directly-elected mayor or member of the London Assembly. Their disqualification period would end once they were no longer subject to the injunction or Order.

# Public Sector Equality Duties under the Equality Act 2010

**Q5. Do you consider that the proposals set out in this consultation paper will have an effect on local authorities discharging their Public Sector Equality Duties under the Equality Act 2010?**



Some 49% considered that the proposals set out in this consultation paper would not have an effect on local authorities discharging their Public Sector Equality Duties under the Equality Act 2010.

There were very few comments received in respect of this question, an example being:-

*“The Public Sector Equality Duties require local authorities to eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Equality Act 2010 and to advance equality of opportunity and foster good relations between those with and those without protected characteristics. As with existing Disqualification Criteria the proposals are universally applicable and therefore do not affect the ability of local authorities to discharge their equality duties.” (response no 058)*

Some respondents expressed concern that the proposals would affect the equality duties and were discriminatory in that they singled out individuals for adverse treatment which does not affect other groups and for reasons which do not relate to their conduct as councillors.

The Government’s Equality Impact Assessment on the proposed changes to the Disqualification Criteria for Councillors and Mayors notes that as more men rather than women are subject to Sexual Risk Orders and the notification requirements set out in the Sexual Offences Act 2003 there is a potential indirect impact on men in relation to these proposed policy changes. The assessment concludes that were

such an impact to be found to exist, there would be countervailing public interest considerations for Councillors and Mayors to be demonstrably of good character, capable of being trusted by the electorate to make important decisions for the communities they represent, and on behalf of vulnerable groups including children and young people. In application of this policy will apply to people who share protected characteristics and people who don't.

## **Government response**

<p>The Government has considered the views expressed in this consultation and does not consider that the proposals will have an effect on local authorities discharging their Public Sector Equality Duties under the Equality Act 2010.</p>
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## **Other views**

### **Q6. Do you have any further views about the proposals set out in this consultation paper?**

This question provided an opportunity for respondents to provide any additional views on the proposals.

The most frequently occurring views given in response to this question are either covered elsewhere in this document, e.g. the right to peaceful protest (see page 10), or relate to issues that were out of scope of the consultation.

# Next steps

Any changes to disqualification criteria for a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor will require changes to primary legislation, in particular the Local Government Act 1972, the Local Democracy, Economic Development and Construction Act 2009, and the Greater London Authority Act 2009.

Government will look to identify a suitable legislative opportunity when parliamentary time allows.

# List of respondents

180 respondents as of 14 December 2017

## **31 Individuals (names withheld)**

### **15 Organisations / Bodies**

Association of Green Councillors  
Bedfordshire Association of Town & Parish Councils  
Cornwall Association of Local Councils  
Kent Association of Local Councils  
Lawyers in Local Government  
Local Government Association  
Middlesbrough Labour Group  
Muslim Women's Network UK  
National Association of Local Councils  
Northumberland Association of Local Councils  
Public Law Partnership  
Society of Council Clerks (Cornwall)  
Society of Local Council Clerks  
Suffolk Association of Local Councils  
Unlock

### **37 Parish Councils**

Anstey Parish Council  
Barrow Gurney Parish Council  
Borough Green Parish Council  
Brockley Parish Council  
Burham Parish Council  
Butterow, in parish of Rodborough  
Cam Bria Parish Council  
Chelveston-cum-Caldecott Parish Council  
Cubbington Parish Council  
Comberton Parish Council  
Cringleford Parish Council  
Crockenhill Parish Council  
Eastington Parish Council  
Effingham Parish Council  
Horsmonden Parish Council  
Hythe and Dibden Parish Council  
Kettleburgh Parish Council  
Kingswood Parish Council  
Kea Parish Council

Laken Heath Parish Council  
Little Gaddesden Parish Council  
Little Paxton Parish Council  
Luxulyan Parish Council  
Nempnett Thrubwell Parish Council  
Reymerston & Thuxton Parish Council  
Rodborough Parish Council  
Snettisham Parish Council  
South Wooten Parish Council  
St Just in Roseland Parish Council  
St Agnes Parish Council  
Trowell Parish Council  
Walmer Parish Council  
Warboys Parish Council  
Westerleigh Parish Council  
Wiggenhall St Mary Magdalen Parish Council  
Westerleigh Parish Council  
Yaxham Parish Council

## **22 District Council**

Breckland District Council  
East Hertfordshire District Council  
East Lindsey District Council  
Mansfield District Council  
Mendip District Council  
Mid Devon District Council  
Newark & Sherwood District Council  
North Hertfordshire District Council  
Selby District Council  
South Holland District Council  
South Lakeland District Council  
Staffordshire Moorlands District Council  
Tandridge District Council  
Teignbridge District Council  
Tendring District Council  
Thanet District Council  
Torridge District Council  
Uttlesford District Council  
Warwick District Council  
Wealden District Council  
West Lindsey District Council  
Wyre Forest District Council

## **14 Town Councils**

Beccles Town Council  
Bodmin Town Council  
Camborne Town Council  
Corsham Town Council

Hednesford Town Council  
Littlehampton Town Council  
Newark Town Council  
New Romney Town Council  
Ollerton & Boughton Town Council  
St Blaise Town Council  
Stowmarket Town Council  
Trowbridge Town Council  
Winchcombe Town Council  
Yate Town Council

## **8 City Councils**

Brighton & Hove City Council  
Chelmsford City Council  
City of York Council  
Exeter City Council  
Leeds City Council  
Manchester City Council  
Newcastle City Council  
Sheffield City Council

## **21 Borough Councils**

Blackburn with Darwen Borough Council  
Bournemouth Borough Council  
Cheltenham Borough Council  
Chesterfield Borough Council  
Corby Borough Council  
Doncaster Borough Council  
Fylde Borough Council  
Hartlepool Borough Council  
High Peak Borough Council  
Kettering Borough Council  
Middlesbrough Council  
Nuneaton and Bedworth Borough Council  
Redar and Cleveland Borough Council  
Ruscliffe Borough Council  
South Ribble Borough Council  
Surrey Heath Borough Council  
Swindon Borough Council  
Watford Borough Council  
West Lancashire Borough Council  
Wirral Borough Council  
Wyre Borough Council

## **15 County Councils**

Devon County Council  
Durham County Council

East Sussex County Council  
Gloucestershire County Council  
Hertfordshire County Council  
Lancashire County Council  
Leicestershire County Council  
Nottingham County Council  
Norfolk County Council  
Somerset County Council  
Staffordshire County Council  
Suffolk County Council  
Warwickshire County Council  
West Sussex County Council  
Worcestershire County Council

## **5 London Councils**

Brent Council London Borough Council  
Camden London Borough Council  
Ealing London Borough Council  
Lewisham London Borough Council  
Sutton Council

## **8 Metropolitan Borough Council**

Barnsley Metropolitan Council  
Gateshead Metropolitan Borough Council  
Kirklees Metropolitan Borough Council  
Oldham Metropolitan Borough Council  
Sandwell Metropolitan Borough Council  
Trafford Metropolitan Borough Council  
Wigan Metropolitan Council  
Wakefield Metropolitan District Council

## **2 Unitary Authorities**

North Lincolnshire Council  
Telford and Wrekin Council

## **1 Fire Authority**

Cleveland Fire Authority

## **1 National Park Authority**

Peak District National Park Authority

# Appendix 1: summary of current disqualification criteria

Under section 80 of the Local Government Act 1972, a person is disqualified from standing as a candidate or being a member of a local authority if they:

- are employed by the local authority;
- are subject to bankruptcy orders;
- have, within 5 years before being elected, or at any time since being elected, been convicted in the UK, Channel Islands or Isle of Man of any offence and have received a sentence of imprisonment (suspended or not) for a period of not less than three months without the option of a fine;
- are disqualified under Part II of the Representation of the People Act 1983;
- are employed under the direction of various local authority committees, boards or the Greater London Authority; or
- are a teacher in a school maintained by the local authority

Paragraph 9 of schedule 5B to the Local Democracy, Economic Development and Construction Act 2009 sets out the criteria on disqualification from standing as, or being, a directly-elected mayor of a combined authority. A person is disqualified from being elected or holding office as the mayor of a combined authority if they:

- hold any paid office or employment (other than the office of mayor or deputy mayor), including any appointments or elections made by or on behalf of the combined authority or any of the constituent councils of the combined authority;
- are subject to bankruptcy orders;
- have, within 5 years before being elected, or at any time since being elected, been convicted in the UK, Channel Islands or Isle of Man of any offence and have received a sentence of imprisonment (suspended or not) for a period of not less than three months without the option of a fine; or
- are disqualified for being elected or for being a member of a constituent council under Part 3 of the Representation of the People Act 1983.

Section 21 of the Greater London Authority Act 1999 disqualifies someone from being the Mayor or an Assembly member if they:

- are a member of staff of the Authority;
- hold an office that disqualifies the holder from being Mayor or an Assembly member;
- are subject to bankruptcy orders are bankrupt or have made a composition agreement with creditors;
- have, within 5 years before being elected, or at any time since being elected, been convicted in the UK, Channel Islands or Isle of Man of any offence and have received a sentence of imprisonment (suspended or not) for a period of not less than three months without the option of a fine;

- are disqualified under section 85A or Part III of the Representation of the People Act 1983 from being the Mayor or an Assembly member; or
- are a paid officer of a London borough council who is employed under the direction of:
  - a council committee or sub-committee whose membership includes the Mayor or someone appointed on the nomination of the Authority;
  - a joint committee whose membership includes a member appointed on the nomination of the council and a member appointed on the nomination of the Authority;
  - the council executive, or one of its committees, whose membership includes the Mayor or someone appointed on the nomination of the Authority;
  - a member of the council's executive who is the Mayor or someone appointed on the nomination of the Authority.