

THE LOCAL GOVERNMENT (DISQUALIFICATION) BILL

Memorandum from DLUHC to the Delegated Powers and Regulatory Reform Committee

A. INTRODUCTION

1. This memorandum has been prepared for the Delegated Powers and Regulatory Reform Committee to assist with its scrutiny of the Local Government (Disqualification) Bill (“the Bill”). The Bill was introduced in the House of Commons on 16 June 2021.

B. PURPOSE AND EFFECT OF THE BILL

2. The Bill would add to the existing disqualification criteria by capturing individuals who are subject to any relevant notification requirements or any relevant orders imposed in relation to sexual offences from standing for or holding public office in a local authority, as a mayor of a combined authority or as the Mayor of London or as a member of the London Assembly.
3. The proposal is for this legislation to prevent individuals from standing as a councillor or elected mayor at the point they trigger the revised disqualification criteria. The disqualification would end once the individual was no longer subject to these notification requirements, which would enable that individual to stand again for office. These proposals will not apply retrospectively.
4. The Bill updates the disqualification criteria to bring them into line with the values and behaviours expected of elected members by the electorate. The Government is of the view that there is public interest for Councillors and Mayors to be demonstrably of good character, and to be capable of being trusted by the electorate to make important decisions for the communities they represent, and crucially on behalf of vulnerable groups, including children and young people.
5. The disqualification criteria have been expanded 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 the territorial equivalents in the devolved nations and in Jersey, Guernsey, or the Isle of Man in the event someone subject to such territorial equivalents subsequently stands for elected office in England.

C. DELEGATED POWERS

Power conferred on: Secretary of State

Power exercised by: Regulations

Henry VIII power: Yes

Parliamentary Procedure: Affirmative resolution procedure

Context and Purpose

OFFICIAL – SENSITIVE

6. The updated disqualification covered by the Bill includes relevant notification requirements or relevant orders imposed in relation to sexual offences in effect in Jersey, Guernsey, or the Isle of Man.
7. The purpose of this regulation-making power is to enable the making of consequential amendments where there is an amendment to the legislation in effect in Jersey, Guernsey, or the Isle of Man covering these notification requirements or orders.

Justification for taking the power

8. We consider that any changes to primary legislation arising from changes to legislation in Jersey, Guernsey, or the Isle of Man would be minor or technical in nature, in order to correct the references in the disqualification criteria. However, there is no existing mechanism in secondary legislation to amend primary legislation in consequence of changes to legislation in Jersey, Guernsey, or the Isle of Man. Given the minor and technical nature of the changes we consider that it would be appropriate to use secondary legislation to make these changes, rather than primary legislation, to ensure that the disqualification criteria are timeously updated.

Justification for the procedure

9. In the event of changes to the relevant legislation in force in Jersey, Guernsey, or the Isle of Man, we anticipate that consequential amendments would need to be made to primary legislation, namely the Local Government Act 1972, the Greater London Authority Act 1999, and to the Local Democracy, Economic Development and Construction Act 2009. It is therefore proposed that the draft affirmative procedure may be used here in order to provide Parliament with thorough scrutiny of the use of this provision.

Department Name – DLUHC (Department for Levelling Up, Housing and Communities)

Date: 24 September 2021