

**Response on behalf of Swindon Borough Council to the Consultation Paper  
'Disqualification Criteria for Councillors and Mayors'**

Swindon Borough Council is a Unitary Authority and has 57 councillors. It operates the Cabinet system. The Borough Council's submissions to the specified questions are as follows:

***Q1 – Do you agree that an individual who is [on the sex offenders register] should be prohibited from standing for election or holding office as a member of a local authority.***

Response – It is arguable that as this would be a matter of public record, then this enables the electorate to make their own judgment. Also, whereas section 80 refers to a sentence of imprisonment of not less than 3 months (suspended or not) as a criteria for disqualification, question 1 would include someone who had received a conditional discharge with no sentence of imprisonment at all. This may be considered disproportionate. Nevertheless, on balance, and in view of the Council being a 'corporate parent' in our case, the Borough Council would agree with the proposition.

***Q2 – Do you agree that an individual subject to a Sexual Risk Order should not be prohibited from standing for election, or holding office as a member of a local authority.***

Response – Yes because the individual has not been convicted or cautioned.

***Q3 – Do you agree that an individual who has been issued with a Civil Injunction or a Criminal Behaviour Order should be prohibited from standing for election or holding office as a member of a local authority.***

Response – No. A civil injunction can be applied for by a local authority or the chief police officer for an area, among other bodies. The individual does not need to have committed an offence to be subject to an injunction, and it can last indefinitely. Only one witness statement is required, and hearsay evidence may be relied on. For an injunction to be granted, a court only has to be satisfied that on the balance of probabilities the person has engaged or threatens to engage in anti-social behaviour. The court does not have to be satisfied "beyond reasonable doubt". The Borough Council considers that if a person is to be disqualified from office, this should only be following a conviction and where the criminal burden of proof has been satisfied. Accordingly, the Borough Council does not consider that the use of a Dispersal Power, a Community Protection Notice, a Public Spaces Protection Order, or a Closure Power should prohibit an individual from standing for election or holding office as a member of a local authority.

So far as a Criminal Behaviour Order is concerned, the Borough Council considers that a conviction should only prohibit an individual from standing for election or holding office as a member of a local authority where the current criteria set out in Section 80 has been met.

***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.***

Response – Please see response to Q3 above.