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Llywodraeth Cymru
Welsh Government

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Consultation – summary of responses

Draft National Assembly for Wales (Disqualification) Order 2015

Date of issue: **April 2015**

Introduction

The Welsh Government undertook a consultation that sought views on the draft National Assembly for Wales (Disqualification) Order 2015 (the draft 2015 Order), which is scheduled to be enacted before the 2016 National Assembly elections.

The draft 2015 Order lists offices that, if held by a person, disqualify them from Assembly Membership.

The purpose of the consultation was to seek views on the content of the draft 2015 Order (which was published alongside the consultation document) before it is laid before the National Assembly. The consultation was published on the Welsh Government website, and a link to the consultation was sent to all offices proposed for inclusion in the next order, inviting their comments. In the interests of transparency, the consultation document set out the criteria and principles adopted by Welsh Government to determine which offices should be included as disqualifying offices in the 2015 Order.

Consultation began on 14 January 2015 and closed on 11 March 2015.

The consultation posed the following three questions:

Question 1

Do you agree that the offices set out in the draft Disqualification Order should be included in the next Disqualification Order?

Question 2

Are there any other offices not included in the draft Disqualification Order, or disqualified under section 16 of the Government of Wales Act 2006 or other legislation, that you believe should be disqualified from Assembly membership? If yes, what also needs to be included and why?

Question 3

If you have any related issues which we have not specifically addressed in the above questions, please use this space to report them.

This document sets out a summary of the responses received, and the Welsh Government's proposed next steps.

Responses

The respondents to the consultation are listed at Annex A. The responses received are summarised below:

Question 1

Do you agree that the offices set out in the draft Disqualification Order should be included in the next Disqualification Order?

A total of eight substantive responses were received. There were no objections to that the inclusion of the offices listed in the draft Order. Two respondents commented that specifically that they agreed with the offices listed; other respondents commented that they agreed with the inclusion of specific offices which were relevant to their organisations.

Question 2

Are there any other offices not included in the draft Disqualification Order, or disqualified under section 16 of the Government of Wales Act 2006 or other legislation, that you believe should be disqualified from Assembly membership? If yes, what also needs to be included and why?

Stuart Williams, a Regional Employment Judge, responded that the Employment Tribunal is not formally part of the First Tier Tribunal. If it is not covered elsewhere, he suggested inclusion of 'The Employment Tribunal - All members'.

Question 3

If you have any related issues which we have not specifically addressed in the above questions, please use this space to report them.

The Electoral Commission responded that they are content with the inclusion of all staff, however commented that members and senior staff are disqualified under other legislation and all staff members are bound by a code of conduct that would result in termination of employment if standing for election for the National Assembly for Wales any way.

The Association of Electoral Administrators (Wales) responded that they strongly support the idea of publishing a comprehensive list of all disqualifying provisions. They recommend that the relevant 'comprehensive list' be prepared and published in a manner which is as straightforward and easily understandable as possible for all candidates and agents standing for election in 2016. Ideally the list should also be designed in a user friendly way making maximum use of the benefits of digital media if at all possible.

Welsh Government response to the consultation

The Welsh Government has analysed the responses received and has found:

List of disqualifying offices

The Welsh Government agrees with the response from Stuart Williams, a Regional Employment Judge, that members of Employment Tribunals should be added to the list of disqualifying offices. This is consistent with the criteria and principles adopted by Welsh Government to decide which offices should be included: one of the criteria is that members of judicial tribunals should be disqualified. Further, we consider that it would be consistent with the criteria for members of the Employment Appeal Tribunal to also be disqualified. Therefore the Welsh Government intends to add members of Employment Tribunals and the Employment Appeal Tribunal to the offices disqualified in the draft Order.

The Welsh Government agrees with the response from the Electoral Commission that all members and staff of the Electoral Commission should have a statutory basis to their disqualification. Therefore, although there is already some statutory provision which disqualifies Assembly Members from becoming members of the Electoral Commission, we agree with the Electoral Commission that the current entry in the draft Order for 'Electoral Commission - all members and staff' should stand, so that all are disqualified from becoming Assembly Members.

We also note that all other responses received were either supportive of the offices included in the draft Order, or had no comment on them.

On this basis, we intend to lay before the National Assembly a draft Order which lists all the offices included in the consultation draft, together with members of Employment Tribunals and the Employment Appeal Tribunal.

Related issues

The Welsh Government notes and agrees with the Association of Electoral Administrators (Wales) support for the idea of publishing a comprehensive list of all disqualifying provisions.

In its response to the Constitutional and Legislative Affairs Committee's report on the 'Inquiry into the Disqualification from Membership of the National Assembly for Wales', the Welsh Government noted the difficulty for potential candidates to determine whether or not they are disqualified from seeking Assembly Membership, because the list of disqualifying offices is derived from several sources (GOWA, the Disqualification Order in force at the time, together with relevant provisions in any other extant legislation). The Welsh Government made a commitment in its response to creating a comprehensive, non-statutory, list of all of the disqualifying provisions of which we are aware, from whatever source, and making it publicly available to parties and potential candidates. The Electoral Commission have already

confirmed they would be happy to work with us to produce this comprehensive list, so that it could be issued alongside the Commission's guidance to potential candidates. This would make it widely available to the public, and would make maximum use of the benefits of digital media, as suggested by the Association of Electoral Administrators (Wales), by being displayed online.

Next Steps

The Welsh Government will lay the draft National Assembly for Wales (Disqualification) Order 2015 before the National Assembly, revised to include reference to members of Employment Tribunals and Employment Appeal Tribunals as outlined above. The draft Order must be approved by the Assembly before it can be recommended to Her Majesty in Council to be made. Subject to its approval by the Assembly and referral to Her Majesty in Council, we intend the 2015 Order to be made before the summer recess.

We will also work with the Electoral Commission to produce the comprehensive list of disqualifying offices, so that this is available well in advance of the next Assembly elections.

Annex A

List of Respondents

Stuart Williams, Regional Employment Judge.

Angela Gemmill, Relationship Manager, Marine Management Organisation

Andrew Morris, President of the Residential Property Tribunal

Kay Jenkins, Head of Office, Wales, the Electoral Commission

Steve Halsall, Chief Executive of the Local Democracy and Boundary Commission for Wales

Gwyn Howells, Chief Executive of the Hybu Cig Cymru - Meat Promotion Wales (HCC)

Kevin Jones, Mid and West Wales Fire and Rescue Service

Rhys James George, Association of Electoral Administrators (Wales)