



LG 01/2020

31 January 2020

Disqualification from Local Authority Membership

Dear Chief Executive,

In advance of the forthcoming general election I would like to clarify the position with regard to any local authority elected members who are standing as candidates.

Section 13A(1) of the Local Government Act 2001, as amended, provides that –

"A person who is a member of either House of the Oireachtas is disqualified from being elected or co-opted to, or from being a member of, a local authority."

It is the Department's view that this applies from the moment a person is declared as standing elected to either House of the Oireachtas. If a person so declared as standing elected is an existing member of a local authority then his or her membership of that local authority ceases with immediate effect.

Election to Dáil Éireann

Section 126 of the Electoral Act, 1992 sets out the procedures of the declaration of the result of the poll in a general election. This provides that –

"On the completion of the counting of the votes the returning officer shall determine and declare the result of the poll and the candidates deemed to be elected shall thereupon stand elected."

A person so declared by a returning officer as standing elected as a Teachta Dála then immediately ceases to be an elected member of a local authority.

Election to Seanad Éireann

There are different methods by which a person can be elected as a member of Seanad Éireann.

Section 53(1) of the Seanad Electoral (Panel Members) Act, 1947 requires the Seanad returning officer to ascertain separately the result of a Seanad general election in respect of each panel and to declare to be elected from such panel the candidates who are so ascertained to be elected.

Section 23(1) of the Seanad Electoral (University Members) Act, 1937 requires that at a Seanad election in a University Constituency the returning officer at such election shall ascertain the result of the election and shall declare to be elected the candidates who are so ascertained to be elected.

Article 18(3) of the Constitution requires that eleven members of the Seanad be nominated, with their prior consent, by the Taoiseach. The Taoiseach's nominees are members of Seanad Éireann from the date the Taoiseach announces their nomination.

A person declared to be elected to Seanad Éireann by a returning officer or who is nominated by the Taoiseach is then disqualified from local authority membership with immediate effect.

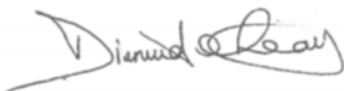
Elected Members Remuneration

Elected members who are standing as candidates in the general election should continue to receive remuneration payments from their local authority in the normal way. The final payments made to any departing members who are disqualified from local authority membership upon election to either House of the Oireachtas should be calculated on a pro-rata basis up to the date that membership ceased.

I would appreciate if you can please ensure that the points set out in this circular are brought to the attention of relevant elected members as well as to staff who have responsibility for calculating elected members' remuneration.

Any queries in relation to this circular can be directed to Jeanette Young at jeanette.young@housing.gov.ie.

Yours sincerely



Diarmuid O'Leary
Principal Officer
Local Government Governance and Elected Members