

# **A Candidate's Guide**

to the election of a  
parish councillor  
Thursday 2<sup>th</sup> April 2020

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*These guidance notes are only a brief outline of the main areas of interest to any candidate at an election of a Parish Councillor in England and Wales. They are not intended to be taken as a full statement of electoral law. Candidates and their agents should refer to the Representation of the People Acts and related Regulations and The Political Parties, Elections and Referendums Act 2000 and take their own legal advice.*

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## 1. Qualifications

In order to be qualified to be elected as a parish councillor a person must be a Commonwealth citizen, a citizen of the Republic of Ireland or a citizen of another Member State of the European Community, who has attained the age of 18 years at the time of their nomination.

In addition the person must be able to satisfy one or more of the following conditions:

- (a) a local government elector for the parish
- (b) during the whole of the twelve months preceding the date of nomination occupied as owner or tenant the land or other premises in that area
- (c) principal or only place of work during the twelve months preceding the day of nomination has been in that area
- (d) during the whole of the twelve months preceding the day of nomination resided in the parish or within 3 miles (4.8 kilometres)

## 2. Disqualifications

There are a number of disqualifications that exist some of which include:

- (a) holding any paid office or employment (other than the office of chairman, vice-chairman or deputy chairman) appointments of which are or may be made or confirmed by the local authority or any committee or sub-committee of the authority or by a joint committee on which the local authority are represented or by any person holding any such office or employment
- (b) holding any employment in a company which, in accordance with Part V of the Local Government and Housing Act 1989 other than section 73, is under the control of the local authority
- (c) being subject to a bankruptcy restrictions order or interim order
- (d) having within five years before the day of election or since his/her election been convicted in the United Kingdom, the Channel Islands or the Isle of Man of any offence and has had passed on him/her a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine
- (e) being elected or for being a member of the authority under Part III of the Representation of the People Act 1983 or under the Audit Commission Act 1998

## 3. Nomination

Each candidate must be nominated on a separate nomination paper. The nomination paper must be subscribed by a proposer, and a seconder. The signatories must be electors in the relevant parish ward. Their unique electoral numbers (to be taken from the February 2020 register) must be given on the nomination paper. A person's electoral number is their number in the register of electors to be used at the election, including the distinctive letters of the relevant polling district. For Henley-in-Arden parish these letters are only HL. The candidate must give their full names (surname first). **If you use a commonly used forename or surname you are strongly advised to complete both of the boxes provided for indicating this information. A commonly used name must be different to your official name e.g. Andy rather than Andrew. You cannot disregard one of your names e.g. if you are Sarah Zoe Smith, you cannot put on your nomination form Zoe Smith or use Zoe as a commonly used name.**

Nowadays candidates must complete a Home Address form and indicate if you do not want this to be disclosed on the ballot paper or Statement of Person's Nominated. If you do not wish this to happen, you must indicate on the form the name of the District where you are resident e.g. Stratford-on-Avon District. **Please note: The person attesting your Home Address Form must be the same as the one signing as a witness to your Consent to Nomination.**

Candidates may also give a description, which must not be more than six words in length. If a description is given it must not lead voters to associate the candidate with a political party unless that description is authorised by a certificate signed by or on behalf of the party's registered Nominating Officer. The authorising certificate must also be received by the Returning Officer not later than the last time for the delivery of nomination papers shown in the timetable. If the candidate wishes to have the party's registered emblem against their details on the ballot paper then this must also be requested by the same deadline.

#### **4. Consent to Nomination**

A nomination is not valid unless the candidate gives his/her consent in writing to the Returning Officer on or within one month before the date fixed as the last day for delivery of nomination papers. The consent must be given at the place and during the time appointed for the delivery of nomination papers. It must contain a statement that the candidate is not disqualified from being elected by reason of any disqualification set out in Section 80 of the Local Government Act 1972, and does not hold a politically restricted post, within the meaning of Part I of the Local Government and Housing Act 1989, under a local authority within the meaning of that Part. It must also state which of the qualifications (a) to (d) is relevant as well as the age and nationality qualification detailed in section 1 of these notes. **Please note that Regulations currently do NOT allow for the submission of electronic versions of the Nomination Paper or the Consent form.**

#### **5. Statement of Persons Nominated**

The Returning Officer is required to publish a statement of the persons who stand nominated and this includes the reasons why persons (if any) no longer stand nominated. If a candidate is nominated by more than one nomination paper then the candidate may choose which nomination paper is to be used for this purpose. If they do not make this selection then the Returning Officer will make the decision. The selected nomination paper will be the one used for this notice and the Notice of Poll.

#### **6. Withdrawal from candidature**

A candidate may withdraw their candidature by delivering a notice of withdrawal (available on request) to the Returning Officer at the place fixed for the delivery of nomination papers and not later than the time and date shown in the timetable. The notice of withdrawal must be signed by the candidate and attested by a witness.

#### **7. Notice of Poll**

The Returning Officer is required to publish a notice of poll. This notice will show the date of the election, the hours of poll, the number of parish councillors to be elected, the nomination details of the candidates remaining validly nominated, the situation of each polling station for the parish and the description of the persons that are entitled to vote at that election.

#### **8. Hours of Poll**

Polling will take place between 07:00 and 22:00.

#### **9. Appointment of Election Agent**

A candidate at a parish council election shall not appoint an election agent. Any reference to an election agent shall refer to the candidate instead.

#### **10. Polling and Counting Agents**

Each candidate may appoint polling agents to attend at polling stations for the purpose of detecting personation. They may also appoint counting agents to attend the counting of the votes. If your parish election is contested, you will be sent copies of these forms. These forms must be given to the Returning Officer not later than the date shown in the timetable. The Returning Officer can set certain limits to the number of counting agents and only one polling agent may attend a polling station for each candidate.

A candidate may also appoint an agent to attend the opening of the postal voters' ballot box. The notice of appointment must be given to the Returning Officer not later than the time fixed for opening. The Returning Officer will give at least 48 hours notice as to the number of persons who may be appointed and when each opening will take place.

#### **11. Definition of Election Expenses**

Election expenses are defined as expenses incurred in respect of the acquisition or use of any property, or the provision by any person or any goods, services or facilities, which is or are used for the purpose of the candidate's election after the date when he/she becomes a candidate at the election. This applies whether the expenses were incurred before or after that date.

## **12. Definition of 'Candidate' in relation to election expenses**

For a local government election, a person becomes a candidate on the last day for publication of notice of election, if on or before this day he has previously been declared (by himself or someone else) to be a candidate at the relevant election; or where a person has not previously been declared a candidate before the date of notice of election, the day on which he is declared to be a candidate or the day on which he is nominated (whichever is the earlier)

## **13. Election Expenses**

The definitions of election expenses and candidates mean that expenditure incurred, for example on leaflets, that were distributed before the date on which a person becomes a candidate are not an election expense and do not need to be included in the return. However, leaflets that were produced before a person officially becomes a candidate, but are used afterwards, are an election expense.

Expenses that were incurred by or on behalf of the candidate for a purpose other than the candidate's election, but which were subsequently used for the purpose of the candidate's election are treated as election expenses.

The candidate may not make any payment (of whatever nature) in respect of election expenses with the exception of those expenses outlined in section 15. Any money provided by any person other than the candidate for election expenses, whether as a gift, loan, advance or deposit must be paid to the candidate.

## **14. Limits as to Election Expenses**

A candidate at a local government election is allowed to incur expenditure up to a limit of £740 plus 6p for every entry in the register of electors on the last date for publication of notice of an election.

Where a poll is countermanded or abandoned by reason of the death of a candidate the maximum amount of election expenses for any remaining valid candidates is twice (or if there has been a previous increase for the same reason) three times, the original amount. A change in timing of the election or any step in the proceeding does not affect the maximum amount for any candidate.

Joint candidates shall each have their maximum expenditure reduced by a quarter or, if there are more than two joint candidates then by one-third.

## **15. Candidate's personal expenses, and petty expenses**

All election expenses must be paid by the candidate including:

- (a) the candidate's personal expenses, such as travel and food.
- (b) any payments made by the candidate on expenses incurred by or on his behalf.
- (c) small expenses legally incurred by some person and not repaid to them, for example a canvasser's bus fare, for which they do not make a claim;
- (d) petty expenses paid by a person authorised by the candidate for stationery, postage and other similar items, to an amount named in writing by the candidate and to be repaid by them.

## **16. Items that are not classed as election expenses**

- the publication of anything (other than an advertisement), relating to the election, in:
  - (a) a newspaper or periodical;
  - (b) a broadcast made by the BBC or SPC;
  - (c) a programme included in any service by a licensed independent radio or TV operator;
- the provision of facilities provided in connection with rights conferred on the candidate under the RPA (eg, use of school room for meetings), excluding for example those costs incurred in preparing and restoring the room, or repairing any damage incurred;
- the provision by an individual of his own services which he provides voluntarily in his own time and free of charge.

## **17. Expenses of meetings, advertisements, election literature**

The candidate may incur expense in relation to the following:

- (a) holding a public meeting or organising a public display
- (b) issuing advertisements, circulars or publications

(c) otherwise presenting to the electorate (except in newspapers and periodicals or in a television or radio broadcast) the candidate or his/her views, or the extent or nature of his/her support of or opposition to another candidate

The candidate incurring these expenses must send a return of any such amount and a declaration verifying the return, giving full particulars, to the Returning Officer within 21 days of the declaration of result. It is a corrupt practice to incur these expenses without the authorisation of the election agent and it is an illegal practice to fail to send the declaration or return. Either offence could cause the election to be void. The candidate must pay all expenses under these headings, which count towards the permitted total.

## **18. Donations**

Candidates may only accept donations of more than £50 made for the purpose of meeting election expenses if they are from a permissible donor. The candidate's election expenses return should include details of all accepted permissible donations of more than £50, and of any donations received from impermissible or unidentifiable donors. A candidate commits an offence if he or she accepts a donation from an impermissible source, or fails to submit a report of donations in his/her expenses return.

## **19. Payment of election expenses**

Every payment made by the candidate in respect of election expenses must be vouched for by a bill stating the particulars or by a receipt. If the amount is less than twenty pounds then this is not the case. Every claim against the candidate must be sent to them within 14 days after the day of election. No claim must be paid, except by order of the court, if not sent within this time. All election expenses must be paid within 21 days after the day of election. Any claim not paid, because the candidate disputes it or otherwise, must not be paid except by order of the court.

## **20. Return of election expenses**

The candidate must deliver to the Returning Officer a return showing all payments made by him, together with the bills or receipts. For amounts of less than £20 a bill or receipt is required only if one is available. A declaration must accompany the return and must declare that to the best of his/her knowledge and belief the return is true and accurate.

This return is required for the purpose of checking that the expenses incurred do not exceed the maximum allowed. It does not entitle the candidate to any refund.

Election Return Forms can be downloaded from the Electoral Commission website at

<https://www.electoralcommission.org.uk/i-am-a/candidate-or-agent/local-elections-in-england>

At the same time, or within seven days after, that the candidate delivers the return and declaration, the candidate must also send to the Returning Officer a declaration in the same manner and under the same conditions. If the candidate is outside the United Kingdom then they should arrange to have delivered their declaration within 14 days of their return to the United Kingdom.

Knowingly making a false declaration constitutes a corrupt practice and failure to send in a return or declaration within the prescribed time constitutes an illegal practice. On certain grounds a candidate or election agent may apply to a court for an "authorised excuse", including illness or inadvertence.

## **21. Corrupt Practices**

It is a corrupt practice to influence, or attempt to influence, a person in the way they vote by:

- (a) bribery (giving any gift or procuring any office)
- (b) treating (providing food, drink or entertainment)
- (c) undue influence (using or threatening any kind of force, violence or duress)

It is also a corrupt practice to cause or permit any false statement or signature to be included in any nomination paper or other document submitted to a Returning Officer.

A person found guilty of a corrupt practice could be liable to imprisonment for up to a year, or a fine, or both. They are also disqualified for five years from being registered as an elector, voting or holding any public office. If an elected candidate is found guilty of a corrupt practice by an election court, their election will be void.

## **22. Illegal Practices**

A candidate may be convicted of an illegal practice if they:

- (a) makes or publishes any false statement of fact about the personal character or conduct of a candidate unless they can show that they had reasonable grounds for believing and did believe the statement to be true
- (b) publishes a false statement of the withdrawal of a candidate for the purpose of procuring the election of another candidate
- (c) corruptly induces or procures another person to withdraw his/her candidature at an election in consideration of a payment or promise of payment
- (d) pays any voter for the exhibition of any election address, bill or notice unless the voter's ordinary business is that of an advertising agent
- (e) prints, publishes, posts or distributes any bill, placard or poster referring to the election, or any document distributed for the purpose of promoting or procuring the election of a candidate, unless it bears on the face of it the name and address of the printer and publisher  
(the Town and Country Planning (Control of Advertisement) Regulations regarding the display and removal of election notices, etc must be complied with.)
- (f) employs or engages a canvasser for payment or promise of payment
- (g) makes use of any television or other wireless transmitting station outside the United Kingdom otherwise than under arrangements for broadcasting by the BBC, Sianel Pedwar Cymru or the holder of any licence granted by the Independent Television Commission or the Radio Authority with intent to influence the voting
- (h) acts, or incites others to act, in a disorderly manner, for the purpose of preventing the transaction of the business at a lawful public election meeting being held in the electoral area in the period beginning with the last date for publication of the notice of election and ending with the day of election.
- (i) for the purpose of promoting or procuring the election of a candidate, issues any poll card or document so closely resembling an official poll card as to be calculated to deceive
- (j) publishes, before the close of poll, any statement as to the way in which voters have voted or any forecast as to the result of the election, based on information given by voters after they have voted

A person convicted of an illegal practice is liable to a fine and is disqualified for three years from being registered as an elector or voting at any election. If an elected candidate is reported guilty of an illegal practice by an election court, their election will be void. A person reported guilty of an illegal practice will be incapable of being elected to any Local Government Office for the period they were elected to serve or might have served and if an office is held at that time it shall be vacated.

### **23. Questioning an election**

An election can only be questioned by way of an election petition. It is advisable for any person wishing to call an election petition to seek legal advice. In normal circumstances a petition must be presented to the High Court within 21 days after the date on which the election was held. It may, in certain cases, be presented at a later date if it is presented on the grounds of a corrupt or illegal practice after the election.