

PARISH (AND TOWN) COUNCIL ELECTIONS

THE CANDIDATE'S GUIDE

The notes in this leaflet set out briefly the main points of concern to any candidate at an election of parish councillors. It is for general guidance only and is not intended as a comprehensive statement of law. Candidates [and their agents, if appointed] should always consult the returning officer in case of any doubt. The form numbers quoted in parentheses in this leaflet refer to the catalogue reference of the appropriate forms published by Shaw and Sons Ltd., Shaway House, Crayford, Kent DA1 4BZ.

1. Qualifications for Candidature

To be qualified to be elected a member of a parish council a person must be 21 years of age or over at the date of his or her nomination, and a Commonwealth citizen, a citizen of the Republic of Ireland, or a citizen of another Member State of the European Community, and either:-

- (i) be a local government elector of the parish; or
- (ii) have during the whole of the twelve months preceding the day on which he or she is nominated as a candidate occupied as owner or tenant any land or other premises in the parish; or
- (iii) his or her principal or only place of work in the twelve months preceding the day on which he or she is nominated as a candidate has been in the area of the parish; or
- (iv) have resided either in the parish or within 4.8 kilometres (3 miles) thereof during the whole of the twelve months preceding the day on which he or she is nominated as a candidate.

There are certain disqualifications for election, of which the main (see S.80 of the Local Government Act 1972) are:-

- (a) holding a paid office under the authority;
- (b) being the subject of a bankruptcy restrictions order or interim order;
- (c) having been sentenced to a term of imprisonment (whether suspended or not) of not less than three months, without the option of a fine during the five years preceding the election; and
- (d) being disqualified under any enactment relating to corrupt or illegal practices.

2. The Election Timetable

The election period lasts a little over four weeks. The following timetable sets out the latest time or day allowed for the various proceedings; in making any calculation from the timetable, Saturdays, Sundays, Christmas Eve, Christmas Day, Maundy Thursday, Good Friday, a bank holiday or a day appointed for public thanksgiving or mourning are to be disregarded. "D.E." in the timetable and elsewhere in this leaflet means "day of election."

Proceeding	Latest Time
Notice of Election	Twenty-fifth day before D.E.
Delivery of nomination papers	Noon on the nineteenth day before D.E.
Publication of statement as to persons nominated	Noon on the seventeenth day before D.E.
Notice of withdrawal of candidature	Noon on the sixteenth day before D.E.
Notice of poll	Sixth day before D.E.
Notice of appointment of polling or counting agents	Fifth day before D.E.

3. Nomination.

Every candidate must be nominated on a separate ***nomination paper*** in the prescribed form (PCE 4 or PCE 4C), the notes to which should be read carefully. The nomination paper must be subscribed by a proposer and seconder who must be local government electors of the parish, or if the parish is divided into wards, the parish ward, and their electoral numbers must be given on the nomination paper. A person's electoral number is his or her number in the register to be used at the election (including the distinctive letter of the parliamentary polling district in which

he or she is registered). The paper must be delivered at the place indicated in the **Notice of Election**. The nomination paper must give the full names (surname first) and home address of the candidate, and may if desired give his or her description, which must not exceed six words in length. A candidate may not use a description which is likely to lead voters to associate him/her with a political party unless that description is authorised by a certificate signed by or on behalf of the party's registered nominating officer, which must also be received by the returning officer not later than the latest time for the delivery of nomination papers.

If a candidate wishes to use a party's emblem to appear against his/her name on the ballot paper, this must also be requested before the closing time for delivery of nominations.

4. Consent to Nomination.

The nomination is **NOT** valid unless the candidate's **consent to nomination** (PCE 4A), given in writing on or within one month before the last day for delivery of nomination papers, is delivered at the place and within the time appointed for the delivery of nomination papers. The consent must contain a statement declaring that, with reference to the day of nomination the candidate is, and on the day of election will be, qualified to be elected (giving particulars of his or her qualification) and must be attested by a witness.

5. Statement of persons nominated.

Not later than noon on the seventeenth day before D.E. the returning officer is required to publish a **statement of the persons who stand nominated** and of the reasons why any other persons nominated no longer stand nominated. If a candidate has been nominated by more than one nomination paper the candidate may select the nomination paper which he or she desires to be used for this purpose; if he or she does not do so the returning officer must select it. The selected nomination paper will be the one used for the purposes of the **Notice of Poll**.

6. Withdrawal from Candidature.

A candidate may withdraw his or her candidature if, not later than noon on the sixteenth day before D.E., he or she delivers at the place fixed for the delivery of nomination papers a **notice of withdrawal** (PCE 3) signed by him or her, and attested by one witness.

7. Hours of Poll.

The poll commences at 7 a.m. and closes at 10 p.m.

8. Election Agent.

A candidate at an election of parish councillors is not required to appoint an election agent.

9. Polling and Counting Agents, etc.

Every candidate may appoint agents to attend at polling stations for the purpose of detecting personations, and counting agents to attend at the counting of the votes. **Notice of the appointments** (PCE 37 and 38) must be given to the returning officer not later than the fifth day before D.E. The returning officer can set certain limits to the number of counting agents and the number of polling agents who may attend at one polling station. In any event not more than one polling agent at a time can attend on behalf of any one candidate.

10. Election Expenses.

A candidate's expenses – that is, the expenses incurred by, or on behalf of, the candidate on account of, or in respect of, the conduct or management of the election, whether before or after the candidate has been formally nominated – must not exceed the maximum permitted amount, and he or she must make a return of them after the election.

Election expenses at a parish council election must not exceed £600 together with 5p for every entry in the register for the parish or parish ward. Where there are two "joint candidates", their maximum is reduced by one-fourth; where there are more than two, by one-third. "Joint candidates" are candidates for the same electoral area who employ the same agents, or clerks or messengers, or hire or use the same committee rooms, or publish a joint election address or circular. (These limits are altered from time to time and candidates would be well advised to check with the returning officer for the current figures.)

Where the poll is countermanded or abandoned because of the death of a candidate, the maximum for any other candidates remaining validly nominated is twice the amount calculated as above.

11. Payment of election expenses.

Every payment made by a candidate in respect of election expenses must, except where the amount is less than ten pounds, be vouched for by a bill stating the particulars, and by a receipt. Every claim against the candidate must be sent to him or her within 14 days after the declaration of the result of the election. If not so sent, it must not be paid except by order of a court.

All election expenses must be paid within 21 days of the day of election, unless later payment is allowed by a court. Every agent of a candidate must, within 23 days after the day of election, make a return to the candidate in writing of all election expenses incurred by the agent.

12. Return of election expenses.

Within 28 days after the day of election the candidate must deliver to the proper officer of the authority for which the election is held a **return** (PCE 20A), showing all payments made by him or her together with the bills and receipts for amounts exceeding ten pounds. The return must be accompanied by a **declaration** (PCE 20B), in a prescribed form, made by the candidate declaring that to the best of his or her knowledge and belief the return is complete and correct.

This return is required for the purpose of checking that the expenses incurred do not exceed the authorised amount and does not, of course, entitle the candidate to any refund of such expenses from the council.

Failure by a candidate to send in the return or declaration within the prescribed time constitutes an illegal practice; knowingly making a false declaration constitutes a corrupt practice. On certain grounds, however, including illness or inadvertence, a candidate may apply to a court for an "authorised excuse".

13. Corrupt Practices.

A person found guilty of a corrupt practice, is, in general, liable to imprisonment for up to a year, or to a fine, or to both, and is disqualified for five years for being registered as an elector, voting or holding any public office. If an elected candidate is reported guilty of a corrupt practice by an election court, his or her election will be void.

It is a corrupt practice to influence, or attempt to influence, a person in the way he or she votes by:-

- (a) bribery, *i.e.* giving any gift, or procuring any office;
- (b) treating, *i.e.* providing food, drink or entertainment;
- (c) undue influence, *i.e.* 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 documents submitted to a returning officer.

14. Illegal Practices.

A person convicted of an illegal practice is liable to a fine and is disqualified for five years for being registered as an elector or voting at any election in the area for which the election is held. If an elected candidate is reported guilty of an illegal practice by an election court, his or her election will be void. A candidate may be convicted of an illegal practice if he or she:-

- (a) makes or publishes any false statement of fact about the personal character or conduct of a candidate unless he or she can show that he or she 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 purposes of procuring the election of another candidate;
- (c) 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;

- (d) 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 (these details must be included specifically, even where the candidate publishes and/or prints any such item himself or herself); (Note: Care must be taken to comply with the provisions of the Town and Country Planning (Control of Advertisement) Regulations regarding the display and removal of election notices, etc.)
- (e) with intent to influence the voting makes use of any television or other wireless transmitting station outside the United Kingdom otherwise than under arrangements for a broadcast by the BBC or the holder of any licence granted by the Office of Communications (Ofcom);
- (f) publishes, before the poll is closed, 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 ("exit polls").

15. Questioning an election.

A parish council election can be questioned only by way of an election petition. Any person desiring to do so will be well advised to take legal advice. The petition must normally be presented to the High Court within 21 days after the date on which the election was held. If presented on the grounds of a corrupt or illegal practice after the election, or of a complaint relating to election expenses, it may in certain cases, be presented at a later date.

16. Acceptance of Office.

A person elected to the office of parish councillor must make a ***declaration of acceptance of office*** in a prescribed form (LE40) before or at the first meeting of the parish council after his or her election, or, if the council at that meeting so permit, before or at a later meeting fixed by the parish council. If he or she fails to do so in that time the office will become vacant.