

DISTRICT BOROUGH AND UNITARY AUTHORITY ELECTIONS – ENGLAND

CANDIDATE'S GUIDE

The notes in this leaflet set out briefly the main points of concern to any candidate or election agent at an election of councillors of an English district, borough or unitary authority. It is intended for general guidance only and is not intended as a comprehensive statement of the law. Candidates and their agents should always consult the returning officer in case of any doubt.

1. Qualifications for Candidature

To be qualified to be elected a member of the council of a district, borough or unitary authority a person must be 18 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 for the area of the authority; 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 area of the authority; 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 authority; or
- (iv) have resided in the area of the authority 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 and Part I of the Local Government and Housing Act 1989) are:-

- (a) holding a paid office under the local authority or a politically restricted post, as defined in Part I of the 1989 Act;
- (b) bankruptcy;
- (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 ordinary elections of metropolitan district councillors take place each year other than in a year of the election of county councillors (ie other than 2001, 2005 etc).

The ordinary elections of London borough councillors take place every four years (ie 2002, 2006 etc).

The ordinary elections of councillors in non-metropolitan districts and unitary authorities take place every four years, except where an order is in force providing for the election of councillors by thirds, in which case the ordinary elections take place each year other than a year of the election of county councillors.

Ordinary elections are held on the first Thursday in May (unless altered by the Secretary of State). Generally speaking, a by-election may be held at any time except within six months before the date when the seat would fall to be filled at the next ordinary election of councillors.

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, 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 appointment of election agent	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. Nominations

Every candidate must be nominated on a separate *nomination paper* in the prescribed form, the notes to which should be read carefully. The nomination paper must be subscribed by a proposer and seconder and by eight assentors. All the signatories must be local government electors of the 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 give a 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. A candidate who is *not* seeking election in the name of a registered party may only use the description "Independent" or, alternatively, no description at all.

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

4. Consent to Nomination

The nomination is **NOT** valid unless the candidate's **consent to nomination** 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 reason 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** signed by him or her, and attested by one witness.

7. Hours of Poll

The poll commences at 7am and closes at 10pm.

8. Appointment of Election Agent

Every candidate must appoint an election agent and give **notice of the appointment** to the proper officer of the Council not later than noon on the sixteenth day before D.E. The candidate may appoint some other person, or may appoint himself or herself. If some other person is appointed the notice of appointment should be accompanied by a written declaration of acceptance signed by that person. If the candidate fails to give notice of the appointment in the prescribed time, or if the appointment is revoked, or the agent dies, and the candidate does not make a further appointment forthwith, he or she will be deemed to have appointed himself or herself. The appointment must show the election agent's name and address, and also the address to which claims and other documents may be sent. The latter address must be within the area of the authority or in an adjoining borough or district, or in the Parliamentary constituency (or one of the constituencies) in which the area of the authority is comprised.

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** 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.

A candidate may also appoint agents to attend at the opening of the postal voters' ballot boxes. **Notice of the appointment** must be given not later than the time fixed for the opening. The returning officer will give notice of the number of persons who may be appointed.

10. Election Expenses

Election expenses are expenses incurred before, during or after an election on account of or in respect of the conduct or management of the election. With the exceptions set out in paragraph 11, no payment, advance or deposit may be made by the candidate or any agent on his or her behalf in respect of election expenses otherwise than by or through the election agent.

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 or his election agent and not otherwise.

Election expenses must not exceed £600 together with 5p for every entry in the register for the 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 ward who employ the same election agent, 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. Candidate's personal expenses, and petty expenses

All election expenses must be paid by or through the election agent, with the following exceptions:

- (a) the candidate's personal expenses eg fares, meals etc. the candidate must send to the election agent within 21 days of the declaration of the result of the election a statement of the amount of such expenses;
- (b) small expenses legally incurred by some person and not repaid to him or her eg a canvasser's bus fare, in respect of which he makes no claim;
- (c) petty expenses paid by a person authorised by the election agent for stationery, postage etc to an amount named in writing by the election agent and to be repaid by him or her. A statement of the particulars of such payments must be sent to the election agent within 21 days of the declaration of the result of the election.

12. Expenses of meetings, advertisements, election literature etc

Only the candidate, the election agent or persons authorised in writing by the election agent may incur any expenses in connection with (a) holding a public meeting or organising a display; (b) issuing advertisements, circulars or publications; or (c) otherwise presenting to the electors (except in newspapers and periodicals or in a television or radio broadcast) the candidate or his views, or the extent or nature of his backing or disparaging another candidate. Any authorised person incurring any such expenses must send to the proper officer of the council within 21 days of the declaration of the result of the election a **return** of the amount, and a **declaration** verifying the return and giving full particulars. Incurring such expense without the election agent's authority constitutes a corrupt practice and failing to send the declaration or return is an illegal practice; either offence might render the election void. All expenses under these headings must be paid by the election agent, and count towards the permitted total.

13. Payment of election expenses

Every payment made by an election agent in respect of election expenses must, except where the amount is less than twenty pounds, be vouched for by a bill stating the particulars, and by a receipt. Every claim against the candidate or his or her election agent must be sent to the election agent within 21 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 28 days of the declaration of the result of the election. Any claim not so paid, because the election agent disputes it or otherwise, must not be paid except by order of a court.

14. Return of election expenses

Within 35 days after the declaration of the result of the election the agent must deliver to the proper officer of the council a **return** in a prescribed form, showing all payments made by him or her, together with the bills and receipts. The return must be accompanied by a **declaration** also in a prescribed form, made by the election agent, declaring that to the best of his or her knowledge and belief the return is true and correct. (If the candidate was his or her own election agent, a declaration in the same form should be used).

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.

At the same time that the election agent delivers the return and declaration, or within seven days thereafter, the candidate (unless he or she was his or her own election agent) must also send to the proper officer a declaration in the same form. If the candidate is outside the United Kingdom when the election agent delivers the return, he or she must deliver the declaration to the proper officer within 14 days of his or her return to the United Kingdom.

Failure by an election agent or 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 or election agent may apply to a court for an "authorised excuse".

15. 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, *ie* giving any gift, or procuring any office;
- b) treating, *ie* providing food, drink or entertainment;
- c) undue influence, *ie* 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.

16. 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 that 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 or election agent 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) employs or engages a canvasser for payment;
- f) 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 Independent Television Commission or the Radio Authority;
- g) 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").

A candidate may be convicted of an illegal practice if, while an election is pending, he or she takes part in any broadcast item (TV or sound) about the electoral area for the purpose of promoting or procuring his or her election unless:

- a) the broadcast is made without his consent, or
- b) the broadcast is made after noon on the nineteenth day before D.E with his or her consent and that of all the other candidates.

For this purpose an ordinary election is "pending" for five weeks – and a by-election from the twenty-fifth day before D.E up to the close of the poll.

17. Questioning an election

A local authority 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.

18. Acceptance of Office

A successful candidate must not act as a Councillor unless he or she has made a declaration of acceptance of office in a prescribed form within two months of his or her election. If he or she fails to do so in that time the office will become vacant.