

# Parish and community council elections in England and Wales

# Guidance for candidates

## Part 1 of 6 – Can you stand for election?

September 2018

This document applies to parish and community council elections only. It does not apply to district, borough, county, county borough and unitary authority elections, mayoral elections or elections to the Greater London Authority. Our guidance and resources for other elections in the UK can be accessed from our website at: [www.electoralcommission.org.uk/guidance/resources-for-those-we-regulate/candidates-and-agents](http://www.electoralcommission.org.uk/guidance/resources-for-those-we-regulate/candidates-and-agents).

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## Essential information

This section of the document contains our guidance on whether or not you can stand for election at a parish council election in England or a community council election in Wales. Supplementary information, which may only be relevant to some candidates, is provided at the back of this document. You can view this supplementary guidance by clicking on the links within this document or by clicking on the chapter heading on the contents page.

In this document, we use 'you' to refer to the candidate. We use 'must' to refer to a specific requirement. We use 'should' for items we consider to be a minimum good practice, but which are not legal or regulatory requirements.

Deadlines mentioned in this document are generic. We have published a [generic election timetable on our website](#). If a by- election has been called, you will be able to obtain a copy of the specific timetable for that election from the Returning Officer.

If you are standing at the elections on 2 May 2019, we have published an [election timetable](#) containing the specific deadlines for those polls which you can download from our website.

We are here to help, so please contact us if you have any questions. See our [Overview document](#) for contact details.

Revised data protection legislation applies from 25 May 2018 and will apply to the processing of all personal data.

Please contact the [Information Commissioner's Office](#) for further information about how the General Data Protection Regulation affects you.

## Qualifications for standing for election

1.1 To be able to stand as a candidate at a parish council election in England or a community council election in Wales you must:

- be at least 18 years old
- be a British citizen, an eligible [Commonwealth citizen](#) or a citizen of any [member state of the European Union](#), and
- meet at least one of the following four qualifications:
  - a. You are, and will continue to be, registered as a local government elector for the parish/community in which you wish to stand from the day of your nomination onwards. See paragraph [1.11](#) for further information.
  - b. You have occupied as owner or tenant any land or other premises in the parish/community area during the whole of the 12 months before the day of your nomination and the day of election. For more details, see paragraph [1.12](#).
  - c. Your main or only place of work during the 12 months prior to the day of your nomination and the day of election has been in the parish/community area. More information is provided in paragraph [1.19](#).
  - d. You have lived in the parish/community area or within three miles of it during the whole of the 12 months before the day of your nomination and the day of election. See paragraph [1.20](#) for further details.

An **eligible** Commonwealth citizen is a Commonwealth citizen who either:

- does not need leave to enter or remain in the United Kingdom, or
- has indefinite leave to remain in the United Kingdom

## Disqualifications

1.2 Apart from meeting the qualifications for standing for election, you must also not be disqualified.

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The full range of disqualifications is complex and if you are in any doubt about whether you are disqualified, you must do everything you can to check that you are not disqualified before submitting your nomination papers.

You must be sure that you are not disqualified as you will be asked to sign one of the required nomination papers to confirm that you are not disqualified.

It is a criminal offence to make a false statement on your nomination papers as to your qualification for being elected, so if you are in any doubt you should contact your employer, consult the legislation or, if necessary, take your own independent legal advice.

The Returning Officer will not be able to confirm whether or not you are disqualified.

1.3 There are certain people who are disqualified from being elected to a parish or community council in England and Wales. You cannot be a candidate if at the time of your nomination and on polling day:

- a. You are **employed by the parish/community council** or hold a paid office under the parish/community council (including joint boards or committees). For further information, see paragraph **1.22**.
- b. You are the subject of a **bankruptcy restrictions order or interim order**. For more information, see paragraph **1.27**
- c. You have **been sentenced to a term of imprisonment of three months or more** (including a suspended sentence), without the option of a fine, during the five years before polling day.
- d. You have **been disqualified under the Representation of the People Act 1983** (which covers corrupt or illegal electoral practices and offences relating to donations). The disqualification for an illegal practice begins from the date the person has been reported guilty by an election court

or convicted and lasts for three years. The disqualification for a corrupt practice begins from the date a person has been reported guilty by an election court or convicted and lasts for five years.

1.4 A person may also be disqualified from election if they have been disqualified from standing for election to a local authority following a decision of the First-tier Tribunal (formerly the Adjudication Panel for England) or the Adjudication Panel for Wales.

## Can I stand for election in more than one parish/community council?

1.5 Yes, you can stand for election in different parish or community councils, provided you are qualified to stand in all those parish or community councils.

## Can I stand as a candidate at both a parish/community council and the election to the principal council?

1.6 Yes, provided you meet the qualifications for both, you can stand for election at a parish/community council election at the same time as standing for election at a principal council election, such as an election to the district, county or county borough.

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## If my parish/community is warded, can I stand for election in more than one ward?

1.7 Some parishes and communities will be sub-divided into wards. You can check with the Returning Officer if the parish or community you intend to stand in is warded. While you may submit nomination papers for more than one ward, you cannot stand for election in more than one ward within the same parish/community after the deadline for withdrawals.

1.8 If the Returning Officer accepts your nomination papers and you are validly nominated in more than one ward within the same parish/community, you must withdraw from all wards but one by 4pm on the 19<sup>th</sup> working day before the poll. If you do not, then you will be deemed to have withdrawn from all of the wards.

1.9 More details can be found in either [Part 2a: Standing as an independent candidate](#) or [Part 2b: Standing as a party candidate](#).

# Supplementary information

## The qualifications

1.10 When completing your consent to nomination form you will be asked to indicate which qualifications you meet. You should indicate on the form all those qualifications that apply to you.

### a. Being a registered local government elector

1.11 To be able to use this qualification, your name must appear on the register of local government electors for the parish/community at the time of your nomination and throughout your term of office should you be elected. Unlike the other qualifications that must only be satisfied on the day of your nomination and on polling day, this is an on-going qualification. We therefore recommend that if you meet any of the other qualifications as well, you also indicate this on your [consent to nomination](#), which is one of the required nomination papers.

### b. Occupying as owner or tenant any land or other premises in the parish/community area

1.12 To be able to use this qualification, you must have occupied as owner or tenant any land or other premises in the parish/community area during the whole of the 12 months before the day of your nomination and before polling day.

1.13 You must occupy 'land or other premises' to meet this qualification. The inclusion of the words 'other premises' can be taken as something other than land (i.e. some form of structure). Because 'land' and 'other premises' are alternatives it is, in theory, possible for a person to meet this qualification

by occupying land only. There are some structures that might, arguably, fall outside the term 'premises' (e.g. a tent, caravan, house boat or mobile home). However, a person occupying such a structure need only establish occupancy of the land on which, for example their tent, is located.

1.14 If the land or premises crosses the parish/community boundary, the land/premises is 'in that area' with respect to both parishes/communities.

1.15 You must also occupy the land or other premises as an 'owner' or 'tenant'. Ownership may be established by showing title to the land or premises in question. Tenancy is established by showing a lease over the land. In a number of circumstances, a lease will survive even though it has expired and the parties have failed to sign a new lease, and the tenancy survives through tacit agreement between the parties. Therefore, there may be circumstances in which a person's tenancy of land or premises might need to be established by evidence other than a current lease.

1.16 You must also have 'occupied' the land or premises. Therefore, in addition to establishing legal ownership or legal tenancy, you must establish that you have actually occupied the land or premises. This is a question of fact in each case. The interpretation of the term 'occupy' in other legal contexts suggests that it is not necessary for a person to be personally resident on the land or premises (which would in any event be covered by the qualification of 'lived in the parish/community area').

1.17 However, it does require something to be actually done on the land or premises – an empty unlocked house cannot be described as 'occupied', for example. It also requires a sufficient degree of control to prevent strangers from interfering with the land or premises. If you have sub-let all of your land or premises to another person, this will point against you having 'occupied' it yourself.

1.18 Finally, you must have occupied the land or premises 'during the whole of the twelve months preceding' the day on which you are nominated and polling day. Whether an absence will prevent you from claiming that you have occupied the land or premises for the preceding year should be worked

out by taking into account all other factors: for instance, whether you have allowed others to occupy the land or premises in your absence, and the reason for your absence.

### c. Your main or only place of work is in the parish/community area

1.19 To be able to use this qualification, your main or only place of work must have been in the parish/community area during the 12 months prior to your nomination and prior to polling day itself. You do not have to be in paid employment to qualify, as long as you satisfy the requirement of your main or only place of work being in the parish/community area. Councillors whose main or only job is being a councillor would be able to use this qualification, provided that their place of work is within the parish/community.

### d. Living in the parish/community area (or within three miles of it)

1.20 To be able to use this qualification, you are not required to have lived at the same address for the whole of the 12 months before the day on which you are nominated, but you must have lived in the same parish/community area, or within three miles of it, during the whole of those 12 months.

1.21 If in the last 12 months you have lived at more than one address in the parish/community (or within three miles of it), you should list on your [consent to nomination](#), which is one of the required nomination papers, all of the addresses at which you have lived during that period. This qualification also requires you to live in the parish/community area, or within three miles of it, from the date of nomination to polling day.

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## Further information on certain disqualifications

### Working for the parish/community council

1.22 You are disqualified from standing as a candidate at elections to a particular parish or community if you are a paid officer or employee of that parish or community. This would be the case where your appointment:

- has been made
- could be made
- has been confirmed by the local authority itself
- has been confirmed by any committee or sub-committee of the local authority
- has been confirmed by any joint committee or National Park authority where the local authority is represented by a person holding such an office or employment

1.23 However, the disqualification on the basis of being a paid officer or employee does not apply to the office of chairman, vice-chairman or deputy chairman of the parish or community.

1.24 Most parishes and communities will not have committees or sub-committees, but some may. Paid officers of a parish or community employed under the direction of such committees or sub-committees are disqualified from standing to that parish or community. In addition, where such a committee or sub-committee has a member, or members, appointed on the nomination of another local authority, the disqualification will also apply to being elected to the other local authority.

1.25 If you are a paid officer of a local authority employed under the direction of a joint board, joint or combined authority, joint waste authority, economic prosperity board or joint committee, you will be disqualified from being elected as a member of all of the authorities that are represented on that body.

1.26 Joint boards, committees etc. can include various organisations, such as fire services and education authorities.

Therefore, as a general rule, if you work in the local public sector, you should seek advice from your employer's HR department to help you establish whether the disqualification would apply to you. Sometimes employment relationships can be complex and if this is the case for you, we recommend that you seek your own legal advice. This disqualification applies on both the date of your nomination and on polling day. If you were employed by the parish/community council, you must have resigned and served any notice period before the date of your nomination to avoid having a contract of employment with the parish/community council at that time.

## Bankruptcy restrictions or interim order

1.27 Bankruptcy in itself is not a disqualification. If you have been adjudged bankrupt by a court in England, Wales or Northern Ireland, you are not disqualified on that basis. However, you are disqualified if you are currently subject to any of the following:

- an interim bankruptcy restrictions order
- a bankruptcy restrictions order
- an interim debt relief restrictions order
- debt relief restrictions order

made by a court in England or Wales. If the order was made in Northern Ireland, you should take your own legal advice since the law is complex.