

# Local elections in England and Wales

# Guidance for candidates and agents

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

November 2017

This document applies to district, borough, county, county borough and unitary authority elections. It does not apply to parish and community council 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).

# Contents

Essential information .....	2
Qualifications for standing for election.....	2
Disqualifications .....	3
Can I stand for election in more than one ward within the same local authority? .....	5
Supplementary information .....	6
The qualifications .....	6
a. Being a registered local government elector.....	6
b. Occupying as owner or tenant any land or other premises in the local authority area .....	6
c. Your main or only place of work is in the local authority area .....	8
d. Living in the local authority area .....	8
Further information on certain disqualifications .....	8
Working for the local authority .....	8
Politically restricted posts .....	10
Bankruptcy restrictions or interim order .....	11

# 2

## Essential information

This section of the document contains our guidance on whether or not you can stand for election at a district, borough, county, county borough or unitary authority election in England and 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.

We are here to help, so please contact us if you have any questions.

See our [Overview document](#) for contact details.

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

Deadlines mentioned in this document are generic and 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 local elections on 3 May 2018, we have published an [election timetable](#) containing the specific deadlines for those polls which you can download from our website.

## Qualifications for standing for election

1.1 To be able to stand as a candidate at a local government election in England and 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 local authority area in which you wish to stand from the day of your nomination onwards. See paragraph **1.9** for further information.
  - b. You have occupied as owner or tenant any land or other premises in the local authority area during the whole of the 12 months before the day of your nomination and the day of election. For more details, see paragraph **1.10**.
  - 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 local authority area. More information is provided in paragraph **1.17**.
  - d. You have lived in the local authority area during the whole of the 12 months before the day of your nomination and the day of election. See paragraph **1.18** 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.

# 4

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 local authority 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 local authority** or hold a paid office under the authority (including joint boards or committees). Note that you may be 'employed by the local authority' if, for example, you work at certain schools, fire services, police or health services. This list is not exhaustive. For further information, see paragraph **1.20**.
- b. You hold a **politically restricted post**. For further details, see paragraph **1.27**.
- c. You are the subject of a **bankruptcy restrictions order or interim order**. For more information, see paragraph **1.30**.
- d. You are the **mayor for a combined authority area** that the local authority is a part of. The only exception to this is where the combined authority mayoral election and the election of councillors falls on the same day. In that case, you may stand at both contests. However, if you are elected at both, a vacancy in the office of councillor will automatically arise.
- e. 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.

- f. 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 a 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 ward within the same local authority?

1.5 While you may submit nomination papers for more than one ward, you cannot stand for election in more than one ward within the same local authority after the deadline for withdrawals.

1.6 If the Returning Officer accepts your nomination papers and you are validly nominated in more than one ward within the same local authority, you must withdraw from all wards but one by 4pm on the nineteenth working day before the poll. If you do not, then you will be deemed to have withdrawn from all of the wards.

1.7 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

1.8 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

1.9 To be able to use this qualification, your name must appear on the register of local government electors for the local authority area you wish to stand in 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 ongoing 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 local authority area

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

1.11 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.

1.12 If the land or premises crosses a local authority boundary, the land/premises is in that area with respect to both local authorities.

1.13 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.

1.14 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 may in any event be covered by the qualification of 'lived in the local authority').

1.15 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 others 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.

1.16 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



# 8

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 local authority area

1.17 To be able to use this qualification, your main or only place of work must have been in the local authority 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 local authority 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 local authority.

## d. Living in the local authority area

1.18 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 local authority area during the whole of those 12 months.

1.19 If in the last 12 months you have lived at more than one address in the local authority area, 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 local authority area from the date of nomination to polling day.

## Further information on certain disqualifications

### Working for the local authority

1.20 You are disqualified from standing as a candidate at elections to a particular local authority if you are a paid officer or employee of that local authority. 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

1.21 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 local authority. Some authorities will have executive arrangements which involve a leader and cabinet executive. In those cases, the disqualification will not apply to the office of executive leader or member of the executive.

1.22 Local authorities typically have committees and sub-committees. Paid officers of a local authority employed under the direction of such committees or sub-committees are disqualified from standing to that authority. 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.

1.23 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.

1.24 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.

# 10

1.25 If you are a teacher (or are a non-teaching member of staff) at a school or other educational institution maintained or assisted by a **county council**, you may be able to stand at elections to the **district council** provided you meet the qualifications and are not otherwise disqualified.

1.26 The disqualification of working for the local authority applies on both the date of your nomination and on polling day. If you were employed by the local authority, you must have resigned and served any notice period before the date of your nomination to avoid having a contract of employment with the local authority at that time.

## Politically restricted posts

1.27 If you are an employee of a local authority anywhere in Great Britain you must check that you do not hold a politically restricted post. If you hold a politically restricted post, you are disqualified from standing for election to any county, district or London borough council in England and county or county borough council in Wales. You may, however, stand at parish or community council elections (provided you are not also employed by the parish or community council, meet all the qualifications and are not otherwise disqualified).

1.28 The posts that are politically restricted are:

- the Head of the Paid Service
- the statutory chief officers (the chief finance officer, chief education officer, chief officer at certain fire brigades or the director of social services)
- non-statutory chief officers (including a person who, as respects all or most of the duties of their post, is required to report directly or is directly responsible to the local authority or any committee or sub-committee of the authority or the head of the authority's paid service)
- deputy chief officers (a person who, as respects all or most of the duties of their post, is required to report directly or is directly accountable to one or more of the chief officers)
- the monitoring officer
- officers exercising delegated powers
- assistants to political groups

- a sensitive post which meets one or both of the following duties-related criteria:
  - I. giving advice on a regular basis to the authority (including committees, sub-committees and joint committees on which the authority is represented)
  - II. speaking on behalf of the authority on a regular basis to journalists or broadcasters

1.29 You should check with the HR department of your employer if you are not sure whether you hold a politically restricted post.

### Bankruptcy restrictions or interim order

1.30 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
- a 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 in this area.