A Candidate’s Guide

for the Election of a

Town Councillor on

Tuesday 17 May 2022

*These guidance notes are only a brief outline of the main areas of interest to any candidate at an election of a Parish/Town Councillor in England and Wales. They are not intended to be taken as a full statement of electoral law. Candidates 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. For more detailed information you can go to* [*https://www.electoralcommission.org.uk/i-am-a/candidate-or-agent/parish-and-community-council-elections-in-england-and-wales*](https://www.electoralcommission.org.uk/i-am-a/candidate-or-agent/parish-and-community-council-elections-in-england-and-wales)

Prepared, printed and published by
Returning Officer

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PART ONE

ELECTION STAFF AND THE ELECTION TIMETABLE

**1. RETURNING OFFICER AND ELECTIONS STAFF**

The Returning Officer is Andrew Bates, and the elections office is at Follaton House, Plymouth Road, Totnes, South Devon, TQ9 5NE. Elections Office staff can be contacted either via the Council's main number (01803 861234) or on 01803 861244.

**2. TIMETABLE**

The elections process is governed by a statutory timetable, which is included in this pack. Within this Guide you will find further references to the matters required by the timetable and, where necessary, additional information will be supplied to candidates between the close of nominations and the day of the poll.

PART TWO

CANDIDATES - NOMINATION/WITHDRAWAL

**3. QUALIFICATIONS FOR CANDIDATURE**

To qualify as a candidate a person must be 18 years of age and a Commonwealth citizen, citizen of the Republic of Ireland or a citizen of another Member State of the European Union and either

(a) be registered as a local government elector within the electoral area; or

(b) have occupied as owner or tenant any land or other premises within the electoral area during the whole of the previous twelve months; or

(c) his/her principal or only place of work during the previous twelve months has been in the area of the electoral area; or

(d). You have lived in the parish/community area or within 4.8km (three miles) of it during the whole of the 12 months before the day of your nomination and the day of election.

(The 'previous twelve months' means the twelve months preceding the day on which he/she is nominated as a candidate).

There are certain disqualifications for election and holding office as a member of a parish council these are set out in the legislation attached to the consent to nomination form and should be read carefully.

If you are not sure if you are eligible to stand as a candidate you should contact the Electoral Commission or seek your own legal advice.

**4. NOMINATION**

**Please note the nomination paper MUST be hand delivered to Follaton House, Plymouth Road, Totnes TQ9 5NE (but not limited to yourself) however it should NOT be posted. In view of the pandemic please ring 01803 861244 to make an appointment or to discuss an informal check. The person delivering should wait for the nomination paper to be checked and must wear a face covering.**

There are three forms that you **must** submit for your nomination to be valid:

• the nomination form

• a home address form

• your consent to nomination

All forms are included in this pack.

**Great care must be taken in the completion of Nomination Papers, to ensure that nominations are not ruled to be invalid, and the information contained in the following paragraphs should be read and adhered to.**

Each candidate must be nominated on a separate Nomination Paper in the prescribed form. The Nomination Paper must give the full names of the candidate. There is a separate home address form to complete and you must make sure that the person that attests this form is the same person witnessing your consent to nomination form. There are restrictions as to the unauthorised use of a description that may lead voters to associate a candidate with a registered political party (see paragraph 7 for further information).

The use of a description is optional – if you want the word ‘independent’ to appear on the ballot paper underneath your name, you need to state this on the nomination form.

Alternatively, you may use a description of no more than six words. It can be any description providing it is sufficient to identify you and is unlikely to associate you with a political party registered with the Electoral Commission. Examples include ‘farmer’, ‘Baker in the High Street’, ‘member of village action team’, etc. Note that the six-word limit is set out in law and the Returning Officer will have to reject your nomination if you exceed it. You may choose not to have a description at all by leaving the description box blank.

Where a candidate is commonly known by aname other than their first name or surname this can be included - for example, it could be entered as Jones, Anthony and the commonly used forenames section could show "Tony". This would mean that the ballot paper would read "Jones, Tony". This would then appear on all the various notices as well as the ballot paper.

**Signatures of subscribers**

The nomination paper needs to be signed (subscribed) by 2 registered electors as **proposer** and **seconder,** from the area (parish or parish ward) in which the person wants to stand as a candidate.

When collecting subscriber information, you should point out what the information will be used for, how personal data will be processed and kept secure. The lawful basis to collect the information in this form is that it is necessary for the performance of a task carried out in the public interest and exercise of official authority as set out in Representation of the People Act 1983 and associated regulations. You should also explain that the information will be shared with the Returning Officer.

Where a nomination paper has the signatures of more than the required number of persons as proposing, seconding or assenting to the nomination, only the first 2 signatures will be accepted. Care should be taken to ensure that the nomination paper is accurately subscribed, because any other names provided after the number required will not be considered, even if one of the first names is not in fact a registered elector and therefore is not entitled to subscribe the nomination, thus making it invalid.

The candidate must ensure that the names of the people signing their nomination paper appear on the relevant electoral register for the area where they wish to stand. The register is published by 1 December each year, and alterations are published at the beginning of each month thereafter, up to (and including) September. The register as at the last day for the publication of the notice of election (i.e. the register as at **1 April 2022**) will be the valid electoral register for the purpose of nominations.

The electoral number of each elector, including the distinctive numbers or letters of the polling district, must be entered on the nomination paper. The rules require these persons to sign the Nomination Paper using their usual signatures, even if the Register of Electors entry happens to be different or inaccurate. ON NO ACCOUNT SHOULD THE SURNAME BE WRITTEN FIRST as is the order in the Register, or names written in full, unless that is their normal signature. It would be very helpful if they could also PRINT THEIR NAME AS SIGNED alongside their signature, in the column provided.

No person shall sign more Nomination Papers than there are vacancies in the electoral area or sign more than one Nomination Paper in respect of the same candidate.

In order to ensure the validity of the nomination, and to reduce the likelihood of its validity being challenged, you are advised to ensure that Nomination Papers are free of errors and crossings out. The use of tippex or other corrective fluids must not be used.

In the event of a Nomination Paper being declared invalid, any person who signed the nomination cannot sign another Nomination Paper if this results in that person having signed more Nomination Papers than there are Members to be elected for that electoral area.

**5. HOME ADDRESS FORM**

All candidates **must** complete a home address form and may choose for their home address not to be published on the statement of persons nominated or the ballot paper.

The form must state:-

* your full name
* your home address in full – this must be your current home address
* your qualifying address, or, where you have declared on your consent to nomination that you meet more than one qualification, your qualifying addresses
* which of the qualifications your qualifying address or addresses relate to
* the full name and the home address in full of the person attesting the form (this must be the same person who signs the consent to nomination).
* if you choose for your home address not to be published on the statement of persons nominated or the ballot paper then you must sign the statement to that effect and give the name of the relevant area in which your home address is situated i.e. the district council area

**6. CONSENT TO NOMINATION**

The candidate must, on or within one month before the last day and time for the delivery of Nomination Papers, deliver BY HAND (but not limited to yourself) to the Returning Officer a Consent to Nomination signed by him/her and containing a statement declaring with reference to the day of his/her nomination that to the best of his/her belief he/she is qualified to be elected, and giving particulars of the qualification. The consent must be attested by a witness. The witness **must be** the same person as the Home Address Form. The nomination is NOT valid unless the consent, properly completed and attested, is delivered within the time stated.

A Consent Form is included with the Nomination Papers attached to this Guide. As mentioned above there are several qualifications for candidature, and these are set out on the consent form - all candidates are recommended to indicate (by deleting those which are not applicable) as many of the qualifications which apply to them. Although failure to indicate more than one qualification will not, in itself, affect the validity of the nomination, it is good practice and could avoid a future loss of qualification.

The extract from the legislation MUST be attached to the Consent to nomination form when it is delivered to the Returning Officer.

If you are not sure if you are eligible to stand as a candidate you should contact the Electoral Commission or seek your own legal advice.

**7. USE OF NAME OF REGISTERED POLITICAL PARTY**

As a consequence of the Political Parties, Elections and Referendums Act 2000, a nomination paper may NOT include a description of a candidate which is likely to lead voters to associate the candidate with a registered political party, unless the description is authorised by a certificate which is :-

(a) issued on or on behalf of the registered nominating officer of the party, and

(b) received by the Returning Officer during the period for the delivery of nomination papers.

If the Returning Officer is of the opinion that a nomination paper does not meet the requirements outlined above, at the close of the period for delivery of nomination papers he will declare the nomination invalid.

Because of the confusion that the mistaken or unauthorised use of a political description could cause, candidates are strongly advised to consider their use of any such description carefully before submitting a nomination paper. They should ensure that the proper authorisation certificate has been made and that it is submitted to the Returning Officer within the specified period, preferably at the same time as the submission of the nomination paper. A party description can be one of the 12 permissible descriptions registered with the Electoral Commission in respect of the relevant party.

**8. REQUEST FOR USE OF POLITICAL PARTY EMBLEM**

Where a candidate has been properly authorised by a Party's Nominating Officer to use a description, a candidate may request that the ballot paper contains against their particulars the party's registered emblem.

The request for use of the registered emblem must be made in writing to the Returning Officer and be received by him during the period for delivery of nomination papers.

**9. HAND DELIVERY OF NOMINATION PAPERS**

Nomination Papers (and the Home Address Form and Consent to Nomination) must be hand delivered to the Returning Officer at the Election Office, Civic Entrance, Follaton House, Plymouth Road, Totnes, South Devon, TQ9 5NE by 4PM on Tuesday 19 April 2022 at the LATEST. The Notice of Election will be published on **7 April** and nominations may be delivered from the date of the notice, between the hours of 10 a.m. and 4 p.m. on Mondays to Fridays (excluding bank holidays). Candidates are requested to submit the completed Nomination Papers as soon as they possibly can after the publication of the Notice of Election. In particular, nominations should not be left until the last two days if this can be avoided, as in the case of an error being discovered, the candidate may not have time to submit a fresh Nomination Paper. **Please call 01803 861244 to make an appointment as the council offices are closed to members of the public.**

If a candidate is nominated by more than one Nomination Paper he/she is asked to indicate the one selected to be used for the purpose of the Notice of Poll. If he/she does not do so, the Returning Officer will select the one to be used.

Please note the requirement for the Nomination Paper, Home Address Form and the Consent to be hand delivered to the Election Office by 4PM on 19 April 2022. On no account will any Nomination Paper, Home Address or Consent form be accepted after that time. The hand delivery by a candidate (or other person) of documents to an office other than the Election Office or to another of the Council's office locations will not be sufficient to meet this requirement.

**10. VALIDITY OF NOMINATION**

The Returning Officer or Deputy will decide upon the validity or otherwise of nominations as soon as practicable after delivery of the Nomination Paper - where possible an informal indication will be given at the time of delivery, in the presence of the candidate, however this may not always be possible, especially at busy periods. A notice of the decision on the validity of the Nomination will be sent to each candidate.

**11. STATEMENT OF PERSONS NOMINATED**

A Statement of Persons Nominated has to be published not later than 4pm on Wednesday 20 April 2022.

As well as showing the persons who stand nominated, it will show the reasons why any other person nominated no longer stands nominated.

**12. WITHDRAWAL FROM CANDIDATURE**

A candidate may withdraw his/her candidature if a notice of withdrawal signed by himself/herself and attested by one witness is **HAND** delivered to the Returning Officer by 4PM on 19 April 2022.

Please note that this is the same time for delivering nomination papers. You cannot withdraw after this time.

**13. REGISTER OF ELECTORS**

Each candidate is entitled to one free copy of the Register for the area in which he/she is intending to stand. This will be supplied upon written request, after 7 April 2022, and, unless a printed version is preferred, will be supplied in data format.

PART THREE

**ADDITIONAL INFORMATION, ABSENT VOTING AND SECRECY**

**14. ADDITIONAL ARRANGEMENTS**

As soon as possible after nominations have closed, the Candidate will be notified of the polling station arrangements, arrangements for the opening of postal voters' ballot papers, appointment of polling and counting agents and agents for the opening of postal voters' ballot papers (as to which see also paragraphs 18 to 20 below), and arrangements for the counting of votes.

**15. ABSENT VOTERS**

Supplies of forms for persons to apply to vote by post or proxy are available online at [www.southhams.gov.uk](http://www.southhams.gov.uk/) or [www.aboutmyvote.co.uk](http://www.aboutmyvote.co.uk)

The final date for postal vote applications is 5pm on Friday 29 April 2022.

The final date for proxy voting applications in respect of this election is 5pm on 9 May 2022.

The final date for late proxy voting or applications on the grounds of a medical emergency or unexpected work commitments (these must be countersigned by a suitably qualified person) is 5pm onTuesday, 17 May 2022.

**Please note that the above deadlines are absolute and that properly completed applications must be received at the Electoral Services Office, Follaton House, Plymouth Road, Totnes, South Devon, TQ9 5NE, by the times and dates shown. Each candidate is entitled to a copy of the lists of absent voters. These will be supplied, upon written request, as soon as possible after the last time for the receipt of applications - i.e.** 29 April 2022.

**16. REQUIREMENT FOR SECRECY**

Candidates and all other persons concerned with the elections will be required to ensure the secrecy of the ballot in all its stages. Candidates, polling and counting agents, and agents appointed for the opening of postal ballot papers will be issued with a copy of the secrecy requirements.

**17. NOTICE OF POLL AND POLL CARDS**

Where an election is contested a Notice of Poll will be published, giving the details of the candidates and polling arrangements, and a copy of the Notice will be sent to all candidates. Poll Cards will only be issued if the parish/town council have requested them.

PART FOUR

**TELLERS, POLLING/COUNTING AGENTS AND AGENTS FOR POSTAL VOTE PROCEEDINGS**

**18. TELLERS AT POLLING STATIONS**

It is common practice for some candidates to appoint 'tellers' to stand outside polling stations and identify electors who have voted, but their activities can sometimes be confusing or intimidating to voters. Tellers are not permitted to be inside the polling station other than to exercise their own vote or to vote as a proxy.

It must be noted that Tellers have no status as far as electoral law is concerned and should concern themselves only with checking who has voted. Anything else could give rise to the risk of allegations of undue influence or antagonising voters. Social distancing must be observed at all times and the Presiding Officer instructions must be adhered to.

**19. POLLING AGENTS**

The appointment of any polling agents has to be notified to the Returning Officer no later than Tuesday 10 May 2022.

There is often confusion as to the necessity to appoint polling agents and as to their purpose. Please note therefore:

(i) that there is no requirement for polling agents to be appointed;

(ii) that the purpose of polling agents is to detect personation in polling stations;

(iii) that a polling agent may mark a copy of the register at the polling station with the details of electors who have voted, but that a register will NOT be supplied by the Returning Officer for this purpose and the marked register must not be removed from the polling station during the hours of the poll;

(iv) that not more than one polling agent may be admitted at the same time to a polling station on behalf of the same candidate; and

(v) that not more than four polling agents may attend at any particular polling station unless the Returning Officer, by notice, allows a greater number. In the event of a greater number being appointed, the Returning Officer shall draw lots to determine which agents are permitted to attend.

**20. COUNTING AGENTS**

Every candidate may appoint counting agents to attend at the counting of the votes. Notice of the appointment must be given no later than 10 May 2022. More details will be provided in due course.

**21. AGENTS FOR THE OPENING OF POSTAL BALLOT PAPERS**

A candidate may attend the opening of postal ballot papers and may also appoint agents to attend. Notice of the time/place for the opening and of the number of agents who may be appointed for each candidate will be given as soon as possible after the close of nominations. Notice of any appointments must be given not later than the date and time fixed for opening, and a Form for the purpose will be provided in due course.

PART FIVE

**POLLING DAY, THE COUNT AND "AFTER THE ELECTION"**

**22. HOURS OF POLL**

The hours of the poll will be 7.00 AM to 10.00 PM. There are provisions for a poll not to take place or to be abandoned or adjourned in the event of the death of a candidate or of "riot or open violence". In the event of any of these circumstances arising, the candidates will be advised as soon as possible.

**23. POLLING STATIONS - LOCATION AND ADMISSION**

Details of polling stations will be forwarded after the close of nominations.

The only persons entitled to be in a polling station are as follows:-

The Returning Officer and members of his staff

Presiding Officer

Poll Clerk(s)

Police Officer

Voter (and person assisting voter with disabilities)

Candidate

Polling Agents

Official Observers

As mentioned in paragraph 16, all persons in attendance at the polling station must adhere to the statutory provisions relating to the requirement for secrecy.

**24. THE COUNT**

The count will be held at Follaton House on Wednesday 18 May. Further details will be notified in due course.

**25. ACCEPTANCE OF OFFICE**

If successfully elected, the candidate may not act as councillor (attend and vote at meetings etc.) until they have signed the acceptance of office. By signing the declaration of acceptance of office, the new councillor agrees to follow the council’s Code of conduct in the performance of their duties.

The declaration must be made in the presence of a member of the parish/community council or of the proper officer of the parish/community council. The declaration must be made and delivered to the council before or at the first meeting of the parish or community council after your election (unless the council at that meeting permits you to do so before or at a later meeting fixed by the council). If you fail to submit your declaration by this deadline, the seat will be declared vacant and a by-election will be held.

Election petitions

**26. QUESTIONING AN ELECTION**

A local election can be questioned only by way of an election petition. 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.

PART SIX

**27. ELECTION EXPENSES**

The Return of Election Expenses must be submitted within 28 days of the declaration of result. Claim forms are enclosed and the Electoral Commission’s Guidance for Candidates on Spending and Donations is included in your pack. You are recommended to read it carefully as the law relating to election expenses is complex.

**28. DEFINITION OF CANDIDATE**

A person becomes a candidate at an election under the local government Act either:-

(a) on the last day for publication of notice of an election if on or before that day he has been declared by himself (or by someone else) to be a candidate; or otherwise, either;

(b) on the day on which he declares himself (or is so declared by someone else) to be a candidate; or

(c) on the day on which he is nominated as a candidate at the election (whichever is the earlier)

**29. ELECTION EXPENSES LIMIT**

Election expenses must not exceed £806 with an additional 7p for every entry in the register for the Ward as at the time of publication of the Notice of Election (7 April 2022).

**30. PAYMENT OF ELECTION EXPENSES**

Every payment made by a candidate in respect of election expenses must, except where the amount is less than £10, be vouched for by a bill stating the particulars, or by a receipt. Every claim against any person in respect of any election expenses incurred by or on behalf of a candidate must be sent to him/her within 14 days of the day 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.

**31. RETURN OF ELECTION EXPENSES**

Within 28 days after the declaration of the election result every candidate must deliver to the Proper Officer of the District Council a return of all election expenses incurred by the candidate together with the bills or receipts for amounts of £10 and over. This return must be accompanied by a declaration, in a prescribed form, made by the candidate declaring that to the best of his/her knowledge and belief the return is accurate. This return is required for the purpose of confirming that the expenses incurred do not exceed the authorised amount. It does not, of course, entitle the candidate to any refund of such expenses from the Council.

The necessary forms will be provided in due course. Failure by a candidate to deliver the return or declaration within the prescribed time constitutes an illegal practice; knowingly making a false declaration constitutes a corrupt practice. A candidate may in certain instances, e.g. illness or inadvertence, apply to a court for an 'authorised excuse'.

**N.B.** Even if you have not incurred any expenses (Nil returns), the forms are a legal requirement and MUST be completed and submitted.

Candidates should be aware that the returns and declarations must be kept by the Proper Officer at the Electoral Services Office, Follaton House, Plymouth Road, Totnes, South Devon, TQ9 5NE for a period of twelve months after they have been delivered, and during that time they are available for inspection by any person. Copies may also be taken upon payment of the prescribed fee.

IT IS NOT THE RETURNING OFFICER'S DUTY TO REMIND CANDIDATES WHO HAVE NOT DELIVERED THEIR RETURNS AND DECLARATIONS ON TIME, NOR TO CHECK ANY PART OF THE RETURNS OR DECLARATIONS.

**32. DISPLAY OF ADVERTISEMENTS**

Posters are subject to other town and country planning controls and the permission of site owners should always be obtained. Contact the Planning Office for further details.

Any advertisements, posters etc. relating specifically to a pending election must be removed within fourteen days after the close of the poll.

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**33. USING IMPRINTS ON LEAFLETS ETC.**

An imprint must, by law, be added to campaign material to show who is responsible for its production. It helps to ensure that the campaign is transparent.

What do you need to include?

On printed material, such as leaflets and posters, you must

* include the name and address of:
* the printer
* the promoter
* any person on behalf of whom the material is being published (and who is not the promoter)

 The promoter is the person who has authorised the material to be printed. If the promoter is acting on behalf of a group or organisation, the group or organisation’s name and address must also be included.

You can use either home or office addresses.

If you are putting an advert in a newspaper, your advert does not need to include the printer’s details.

**Disclaimer**

The above guide is intended to provide helpful guidance to candidates. Candidates should always seek their own legal advice on matters of electoral law. Furthermore, whilst every effort has been made to ensure the accuracy of the contents of this guide, the Returning Officer or Deputy Returning Officer can accept no responsibility for any consequences arising from any errors or omissions in this guide.