



West Devon Borough Council

A Guide to Parish/Town Council Election Procedures – MARCH 2019

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INTRODUCTION

These notes have been produced as a guide to Parish and Town Councils of the law and practice relating to parish/town council elections. It is intended that it will be regarded as a useful reference document however you may wish to seek further advice/information on a particular area by contacting the Electoral Services Office during normal office hours on 01822 813665 or 813525.

The Returning Officer was appointed by the Borough Council and is responsible for the conduct of, and arrangements for, Borough and Parish/Town Council elections.

The Electoral Services Office undertakes the work connected with the conduct and arrangements for all elections and also the preparation of the Register of Electors.

First point of contact with regard to any electoral matters.

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ORDINARY PARISH/TOWN COUNCIL ELECTIONS – HELD EVERY 4 YEARS

1.1. Term of Office

Parish/Town Councillors hold office for a period of four years and retire on the fourth day after the ordinary day of election. The newly elected councillors take office (provided they have made declarations of acceptance of office) on the day on which their predecessors retire (Local Government Act 1972, Section 16(3)). The Chair of a parish council continues in office until their successor becomes entitled to act.

1.2. Combination of Elections

The Representation of the People Act 1983, Section 36, allows for the ordinary elections of borough councillors to be combined with the ordinary election of parish councillors. The costs of combined elections are apportioned as appropriate - eg staffing, rent of polling stations are divided equally between the district and parish, but each pays for specific items such as ballot papers and election notices. Similar provision is made for combined casual elections.

For ordinary elections the parish/town council will be advised of the cost of the elections in the autumn after the election. They will then be able to precept for the cost and an invoice will be issued in the next financial year. For casual elections the parish/town council will be recharged as soon as possible.

1.3. The Election Timetable

Ordinary Borough and Parish Council elections are held every four years, usually on the first Thursday in May although the Secretary of State does have the power to make an Order, by 1st February of the year of election, for them to be held on another date.

The timetable for the election is calculated in accordance with the Local Elections (Principal Areas) Rules 1986. The timetable will be sent to Parish Clerks prior to the commencement of election proceedings.

The timetable for proceedings is as follows:-

- | | |
|---|--|
| • Publication of Notice of Election | Not later than the 25th day before the day of election. |
| • Delivery of Nomination Papers & Notification by Parishes of whether Poll Cards required | Not later than 4PM on the 19th day before the day of election. |
| • Delivery of Notices of Withdrawal of Candidature | Not later than 4PM on the 19th day before the day of election. |
| • Notice of Poll | Not later than the 6th day before the day of election. |
| • Notice of Appointment of Polling or Counting Agents | Not later than the 5th day before the day of election. |
| • Polling | Between the hours of 7am and 10pm on polling day. |

NB: In calculating the specific dates, Saturdays, Sundays, Christmas Eve, Christmas Day, Good Friday, bank holidays or days appointed for public thanksgiving or mourning are to be disregarded.

1.4. Poll Cards

Where the poll at a parish election is combined with a Borough Council election poll cards will be produced and paid for by the Borough Council. However, if the two elections are scheduled for the same date but only the Parish Council election is contested, it will be necessary to know whether the Parish Council still require poll cards to be produced at their own expense.

There is a statutory deadline for notification by Parish Councils of whether poll cards are required which is no later than 4PM on the nineteenth day before the date of election. This notification must be given in writing and received prior to the deadline.

The cost of producing and sending out poll cards will only be charged if the Parish have requested poll cards and the Borough Council election is uncontested.

1.5. Nomination

Nomination papers in respect of Parish/Town Council elections will be supplied to the Parish/Town Clerks in case requests are made to them directly. Nomination papers in respect of Borough Council elections will only be available from Kilworthy Park, Tavistock, PL19 0BZ.

It is important that nomination papers are completed correctly. The following information may be used as a guide.

(a) Each candidate must be nominated on a separate nomination paper.

There are three forms that must be submitted for a nomination to be valid:

- the nomination form
- a home address form
- consent to nomination

(b) **The nomination form** must show:-

- *Name in full.*
- *Description (if desired but see note below). Such description must not exceed 6 words in length - abbreviations will be treated as individual words. Examples of description are - Labour, Conservative, Liberal Democrat, Green, Housewife, Farmer, Independent etc*

N.B. A person who wishes to describe themselves on their nomination paper so as to lead voters to associate them with a registered political party must submit a Certificate of Authorisation for the precise description chosen. The certificate must be issued from the appropriate party's registered nominating officer, or by someone authorised to act on his behalf, and must be received by the Returning Officer by the close of nominations. If this Certificate is not received the nomination will be held invalid.

- Must be signed by two electors:-
- *Proposer*
- *Secunder*

Both electors must appear on the current electoral register from the Parish/Town area, or from the Parish/Town ward if the Parish/Town is warded. They cannot sign more nomination papers than the number of vacancies to be filled.

- The nomination paper must include the electoral numbers of the persons subscribing the nomination. The distinctive letters referred to on the paper are the polling district reference which may be found on the front of the register in large type and consist of two letters e.g. CA (please note two Tavistock wards also have a number ie. CU1, CU2, CV1 and CV2)

(c) **The Home Address Form – must state**

- full name
- home address in full – must be current home address
- qualifying address, or, where they have declared on their consent to nomination that they meet more than one qualification, their qualifying addresses
- which of the qualifications the 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 they choose for their home address not to be published on the statement of persons nominated or the ballot paper then they must sign the statement to that effect and give the name of the relevant area in which their home address is situated i.e. the district council area

(d) **Consent to Nomination**

A nomination is NOT valid unless the candidate's consent to nomination, given in writing on or within one month before the last day for the delivery of nomination papers is delivered to the Returning Officer. The consent must contain a statement declaring that with reference to the date of his nomination the candidate is, and on the day of election, will be, qualified to be elected, giving particulars of his qualification. One of the following four qualifications must be relevant:-

- that they are an elector of the Parish/Town.
- that during the whole of the preceding 12 months they have either occupied as owner or tenant land or other premises in the Parish/Town.
- that their principal or only place of work during the preceding 12 months has been in the Parish/Town.

- they have resided either in the Parish/Town or within 4.8 km (3 miles) thereof during the whole of the last 12 months.

1.6 Delivery of Nominations by Parish/Town Clerk

If Parish/Town Clerks are requested to bring in any nominations they should do so as soon as they receive them to avoid long delays. Appointments cannot be made in advance – nominations are dealt with on a first come first served basis.

It is therefore strongly recommended that nominations are delivered well in advance (*at least a week if possible*) of the 4PM deadline on the 19th day before the day of election.

Nomination papers **MUST** be delivered by hand and the person delivering them should be prepared to wait for the papers to be verified.

NO nominations will be accepted after 4PM on the 19th day before the day of election. *As with all election deadlines this will be strictly adhered to.*

1.7. Qualifications for Candidature

A candidate must be:-

- A commonwealth citizen, citizen of the Republic of Ireland or citizen of the European Union.
- aged 18 years or over on the day of nomination and not disqualified by any statute.
- And qualify under at least one of the criteria in the consent to nomination form listed above.
- A candidate must also make sure that they are not disqualified.

1.8. Withdrawal of Candidates

A candidate may withdraw his candidature by delivering a notice of withdrawal, signed by themselves and witnessed by 4PM on the nineteenth day before the election (same date and time for the delivery of nominations)

1.9. Statement of Persons Nominated

After the close of nominations the Returning Officer must publish a list of the persons who stand nominated, giving the candidates name, address (if any) and description (if any).

1.10. Uncontested Elections

If the number of persons remaining validly nominated after any withdrawals does not exceed the number of councillors to be elected, a poll will not be necessary and such persons will be declared to be elected as soon as possible after the latest time for the delivery of withdrawals. The Returning Officer will give notice of their names to the Parish/Town Clerk or Chairman and to the public. The persons elected in these circumstances do not take office until the day on which their predecessors retire.

If there are insufficient candidates to fill all vacancies, the Representation of the People Act 1985 Section 21 allows the elected members, provided there is a quorum (one third of the whole number of members with a minimum of three) to co-opt members to fill the remaining vacancies. If the Parish Council fails to exercise the power to co-opt within seven weeks (35 days computed in accordance with the statutory timetable) or if there is no quorum, the Borough Council may order a fresh election to properly constitute the Parish/Town Council.

1.11. Contested Elections – Declaration of Result

When the result of the poll is known, the Returning Officer will:-

- declare to be elected the candidate(s) to whom more votes have been given than to the other candidates, up to the number of councillors to be elected.
- give notice of the name of each candidate elected to the Parish/Town Clerk or Chairman.
- give public notice of the name of each candidate and of the total number of votes given for each (whether elected or not) together with the number of rejected ballot papers.

1.12. Declaration of Acceptance of Office

A person elected to the office of chair of a Parish/Town Council or Parish/Town Councillor shall make in the presence of a member of the Council or of the “Proper Officer” of the Council (usually the clerk), a Declaration of Acceptance of Office (contact West Devon Borough Council legal section for a copy) :-

- in the case of the Chair, at the meeting at which they are elected.
- in the case of a councillor, at or before the first meeting of the Parish/Town Council after their election; or

- in either case if the Council at that meeting allows, at or before a later meeting fixed by the Council

Failure to do so will mean that their office will become vacant (Local Government Act 1972 Section 83).

Please note that Parish/Town Clerks should familiarise themselves with the procedures to be followed after the election of candidates and ensure that they have relevant paperwork with regard to Declarations of Acceptance of Office and Registrable Interest Forms.

FILLING OF CASUAL VACANCIES

Casual vacancies occur within the four year term and will be filled by either co-option or election. Below is a guide to assist the Parish/Town Clerk.

2.1 The Vacancy

Firstly, the Parish/Town Council must advertise the vacancy. This should be done by displaying a notice similar to Appendix A. The notice should be displayed in places that are as conspicuous as possible and a copy sent immediately to the Electoral Services Office, Kilworthy Park, Tavistock, Devon, PL19 0BZ or by email: elections@westdevon.gov.uk. The Parish/Town Council may also advertise the vacancy in any other manner they wish.

It is important to complete the notice correctly, paying particular attention to the dates on the notice as it must be displayed for 14 days from the date of the notice. The 14 days must not include weekends, bank holidays etc (see paragraph 1.3).

2.2 Filling the Vacancy by Election

During the 14 days of the notice being displayed 10 electors from within the Parish/Town or ward of the Parish/Town can call for an election to be held. To do this they will need to make their request in writing to the Returning Officer, Kilworthy Park, Tavistock, Devon, PL19 0BZ.

If an election is not requested as prescribed above, the Parish/ Town Clerk will be advised accordingly and informed that the Council will have to co-opt as soon as possible. Although it is entirely a matter for the Parish/Town Council how co-option is arranged, it is advisable for a notice to be displayed advising electors of the date on which co-option will be carried out and inviting any interested parties to put their names forward for consideration.

In the event of an election being requested, the Parish/Town Clerk will be notified and an election date will be set by the Returning Officer which must fall within 60 days from the date of the Notice of Vacancy. The following events will then take place.

(In the case of a casual vacancy occurring in the office of a Parish/Town councillor within six months before the day on which that councillor would regularly have retired, an election shall not be held unless the total number of unfilled vacancies in the membership of the Council exceeds one third of the whole number of members. The Parish/Town Council may however co-opt a person to fill the vacancy if so desired.)

2.3 Notice of Election

Notices of election will be produced by the Returning Officer indicating the dates for delivery of nominations, postal/proxy voting arrangements together with the polling day and hours of poll if contested. Such notice will be displayed at South Hams District Council offices and copies supplied to the Clerk for display within the area affected. Alternatively these notices may, at the request of the Clerk, be displayed by SHDC at an extra charge to the Town/Parish Council or inserted in the local daily newspaper, the cost of which would be recharged to the Town/Parish Council.

2.4 Poll Cards

The Clerk will be asked to notify the Returning Officer, in writing, whether the Town/Parish Council will require poll cards to be issued in respect of the election. He/she must notify the Returning Officer of the decision of the Town/Parish Council by 4PM on the 19th day before the date of the election, otherwise it will be deemed that poll cards are not required.

2.5 Nomination Papers and Timetables

Sets of nomination papers, home address forms and consent to nomination and timetables will be supplied to the Clerk in case requests are made to them for nominations. The Clerk should therefore send such sets to all persons who have shown an interest in being on the Council, together with an explanatory note, i.e. completed forms to be hand delivered to the Returning Officer, Kilworthy Park, Tavistock, by 4PM on the designated date.

2.6 Notice of Poll

After the last date for delivery of notices of withdrawal, the Returning Officer will publish the Notice of Poll giving details of the candidates, polling stations and hours of poll. These notices are displayed at the West Devon Borough Council's offices and a copy sent by email to the Clerk for display within the area in conspicuous places..

2.7 Notice to Person Elected

Sent by the Returning Officer to the successful candidate.

2.8 Declaration of Acceptance of Office

The person elected as Town/Parish Councillor must make a declaration of acceptance of office before or at the first meeting of the Council after he/she has been elected (Section 83(4) of the Local Government Act 1972). This notice should be supplied by the Town/Parish council.

2.9 Insufficient Nominations

An unopposed candidate will take office immediately after they have been declared to be elected (Local Government Act 1972 Section 16(3)).

Where an election has been requested to fill a casual vacancy and there are insufficient nominations another election date will have to be arranged and held within 35 computed days of the date of the original election.

2.10 Term of Office

A person elected or co-opted to fill a casual vacancy holds office until the person in whose place they are elected or appointed would regularly have retired.

APPENDIX A

(insert name of PARISH/TOWN) COUNCIL
Local Government Act 1972 Section 87(2)

CASUAL VACANCY

NOTICE IS HEREBY GIVEN that a vacancy (or number of vacancies if more than 1) exists in the office of Town/Parish Councillor for the (insert Ward name if Parish/Town warded) of (insert parish/town council name).

Unless ten or more electors of the (insert Parish/Town ward if warded or name of Parish/Town if not warded), on or before the (insert date 14 days excluding Saturdays, Sundays, Christmas Eve, Bank Holidays and any days set aside for national mourning, from the date of the notice), submit a request in writing for an election to be held, the Town/Parish Council will take steps to fill the vacancy by co-option.

Requests must be sent to the Returning Officer, West Devon Borough Council, Kilworthy Park, Tavistock, Devon, PL19 0BZ.

Signed:
Town/Parish Clerk
Date