



Elections May 2023

HAPTC is a specialist not-for-profit membership organisation for all parish, town and community councils and parish meetings within Hertfordshire. We offer support, advice and training to our members to enable them to serve their communities to the best of their abilities.

Our specialist field is in parish council law and procedure, but we can advise or signpost on a wide range of subjects including employment, financial controls, risk management, allotments, burial grounds, code of conduct, village greens and playgrounds.

We represent parish councils to district/borough, county, regional and national bodies and work to enhance communication with everyone within the Parish Council network. We're the distributor of funds from Government to our sector, such as the Transparency Fund.

Need more information?

Contact sue@haptc.org.uk or 07956 590094

Please note that all councillors and clerks can access our members pages on our website. Sue can provide password details.

Carina Helmn, County Officer



Guide to Local Council Elections

Community, parish and town council (local) elections are an essential part of local democracy and must be held in accordance with legislation. This booklet will give information on how to attain office as a community, parish or town councillor, local council election procedure and what happens in between elections.

The next elections will take place in England on **Thursday 4th May 2023** so now is the time to get prepared. These elections are known as **Ordinary Elections** and

- ◆ are the responsibility of the respective Returning Officer of the District/Borough Council, which is the Elections Authority
- ◆ are held every 4 years
- ◆ all current members of the council stand down and all seats become vacant
- ◆ existing councillors who want to continue must stand for re-election
- ◆ if there are enough candidates for the number of seats or fewer candidates than seat they are elected unopposed
- ◆ if there are more nominations than seats, a poll is held on 4th May
- ◆ may coincide with District/Borough/county/national/police commissioner elections

Role of the Council

Community, parish and town councils need active and committed councillors to serve the needs of their communities so will often support the election by providing information to prospective candidates and to the community. Councils may wish to promote their own websites so that candidates have an opportunity of seeing what services and facilities the council provides. On a website people can view council meeting agendas and minutes plus council financial information that is contained in the annual return.

The current Councillors and Clerk may also provide formal or informal information to candidates on what the role, within their particular council and community, involves.



Role of the Clerk

The Clerk may assist in the promotion of the work of the council to the public, have copies of the nomination papers so that they are available in hard copy locally for the convenience of candidates and in giving guidance on the timetable for elections, see later.

The Register of Electors for your parish or town area is available from the Returning Officer.

Candidates

To stand for election to a community, parish or town council you must have certain qualifications. You can also be disqualified from standing as a candidate, see table below:

Qualifications of a parish councillor	Disqualifications of a parish councillor
✓ Must be over 18 years	✗ Holds a paid office with the council
✓ UK, Commonwealth or EU citizen	✗ Subject to bankruptcy regulations
✓ Be registered as an elector for the parish	✗ Within 5 years has a custodial sentence
✓ In the past 12 months have occupied (as owner or tenant) land or other premises in the parish	✗ Convicted of corrupt or illegal practices
✓ Work in the parish (as your principal or only place of work)	✗ Convicted for failure to register or declare disclosable interests
✓ Live within three miles of the parish boundary	

Guidance for candidates can be found at <https://www.electoralcommission.org.uk/i-am-a/candidate-or-agent/parish-and-community-council-elections-in-england-and-wales> including detailed guidance on the criteria above for qualifications and disqualifications.

Election

A local council election is deemed to have been held regardless of whether it is contested (there are more candidates than seats) or uncontested (there is the right number of candidates or less for the number of seats to be filled).

It is important to note that if an uncontested election has resulted in a quorum of elected councillors, they may fill the remaining vacancies by co-option, details later.

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

Yes, provided you are qualified to stand in all those local councils.

Likely Election Timetable Key Dates 2023 (to be confirmed)

Be careful not to miss important dates. There is a statutory process for elections that must be followed:

Publication	Not later than Monday 27 th March
Nomination papers submission	Up to 4pm Tuesday 4 th April
Deadline for withdrawals	4pm Tuesday 4 th April
Statement of nominations	4pm Wednesday 5 th April
Notice of poll	Tuesday 25 th April
POLLING DAY	Thursday 4 th May 7am to 10pm
Declaration of result	Published by the Returning Officer as soon as practicable, usually the day after the poll
Change of Council	Tuesday 9 th May
Annual meeting	The summons for the Annual Meeting can be served as soon as the names of the new Councillors are known: If an election is needed (i.e. more nominations than seats), <i>the earliest the summons can be served is the day that the count of votes is completed and the formal declaration is made*</i> if no election (i.e. not more nominations than seats), it can be held from Tuesday 9 th *; <i>not later than Thursday 25th May</i>
Return of election expenses**	1 st June
Register of disclosable pecuniary interests	Not later than tbc
Co-option	Not later than tbc

* *Annual Meeting* must be held within 14 days of the new Council taking Office (which is Tuesday 9th May) (not including Sundays or Bank Holidays), i.e. by 25th May at the latest. It cannot be called until the names of the new Councillors have been confirmed.

- If there is an election (i.e. more nominations than seats available on the council), the first day that the summons can be issued is the day that the votes have been fully counted and the results formally declared which will depend on the District/Borough Council running the elections. This is usually polling day or the day following, but in certain circumstances might be the day after that.
- If there are exactly the same number of candidates as seats (“uncontested”) or less (“insufficient”) then the names of all the Councillors for the new Council are known and so the summons can be issued earlier; at any point following the formal declaration/notification by the Elections Office. The 3 clear days’ notice do not include Sundays or Bank Holidays, so if the summons is issued on or before Wednesday 3rd May, the earliest the Annual Meeting can be held is Tuesday 9th May.

** “*Return of election expenses*” refers to the official documentation supplied by the Elections Authority which must be submitted by the candidate following the elections, even if a null return. The declaration form will account for all their expenses incurred in

connection with the election. A limit on the amount that can be spent on expenses is set by statute. This return (not a claim) is not the responsibility of the Clerk, but of the candidate.

Clerks are sometimes approached by candidates regarding claiming back expenses they have incurred during the course of an election campaign. These costs are their choice and the responsibility of the individual and cannot be reimbursed by the Council (regardless of whether they have been serving as a Councillor up to this point and are looking to be re-elected).

A full timetable of election events is attached and, as mentioned before, the Electoral Commission website has further information.

Purdah or Pre-Election Restricted Period (PERP)

During the period between the notice of an election and the election itself, council should not publish any publicity on controversial issues or report views in such a way that identifies them with any particular member. In general councils should not issue any publicity material which seeks to influence voters. It can publish factual information about the business, services and amenities of the council or to identify the names of candidates at elections.

Checklist for Nomination Forms

Nomination forms are available from the District/Borough Council and must be carefully completed with:

- Personal details of candidate
- Personal details of those people nominating them
- Addresses in full with no abbreviations
- Register of elector's number
- Code of village/town
- Political party (if any)
- Signatures
- Date

These may be held by the Clerk for ease of access by prospective nominations.

Nomination forms **must** be hand delivered by the candidates to the District/Borough Council. Candidates should obtain a receipt that is signed and dated as errors have been known to happen.

Contested election



If there are more candidates than seats to fill the election is contested and a poll is held.

The costs of holding a local council election are passed down to the local council by the principal authority. Expenses are apportioned equally between bodies if more than one election is held on the same day e.g. for District, county or national.

Poll cards

There is no requirement in legislation for poll cards to be issued at ordinary local council elections. However, Parish Councils may request the issue of poll cards, but they are likely to have to bear their expense. Poll cards can also be issued for by-elections.

Uncontested election

In an uncontested election the Returning Officer at the District/Borough is required to give notice to the parish clerk of those persons elected as soon as the deadline for withdrawals has passed.

Not enough nominations at election?

After an uncontested election, due to insufficient candidates being nominated for the election, and provided that there is a quorum of elected councillors, the council may fill an outstanding councillor vacancy or vacancies by co-option.

Should there not be a quorum then the District/Borough council will make the necessary appointments and afterwards a co-option process can be conducted.

Co-option due to insufficient candidates at election

If there are insufficient candidates to fill the number of seats on a local council, then a public notice of the vacancy or vacancies will be displayed in a conspicuous place by the Clerk and a copy sent to the Returning Officer. There is no statutory requirement to give public notice of local council vacancies after an ordinary election, but it is recommended to encourage transparency and attracts candidates.

All candidates for co-option are subject to the rules on qualifications and disqualifications for elected councillors. It is the community, parish or town council which has the responsibility for appointing co-opted members. Councils should require candidates for co-option to declare or certify in writing that they meet the criteria for eligibility and are not disqualified.

To ensure a fair and transparent process the council may invite candidates to include an explanation about their interest in applying for the vacancy. Candidates may be assessed on their skills, expertise or areas of interest which would assist the council in the exercise of their various functions. Or candidates could be assessed on whether or not they meet the criteria in a person specification that has previously been agreed by the council. An example of a person specification is in the attachments to this booklet.

Voting

A successful candidate must receive an absolute majority of those present at the council meeting when the co-option is being made. Proxy voting is not allowed at council meetings. If the number of candidates exceeds the number of vacancies, then each vacancy must be filled by a separate vote or series of votes. The successive counts eliminate the least successful candidate until the successful candidate has an absolute majority of those present.

This will often be a simple procedure but if several candidates have the same number of least votes e.g. 3;2;2;2 and negotiations for withdrawals fail, then the Council must strike them off one by one in order determined by vote.

Standing Orders may allow for the vote to be undertaken by secret ballot, but it is important to remember that any Councillor can before, during or after the vote request a recorded vote. The Clerk must prepare ballot papers to be able to accommodate this possible eventuality.

Also, it would be difficult for a local council to argue that there are special reasons which justify excluding the public during a council meeting when deciding about a matter of public interest such as co-option. Decisions about co-option which are made at council meetings when the public have been excluded will not eliminate the need for a council to explain, for example to unsuccessful candidates, the reasons for its decisions.

Casual Vacancy

Should a vacancy occur between ordinary elections then it must be declared as such by the Council to the Returning Officer of the District/Borough. A 'casual vacancy' can arise from one of six causes:

- 1. Failure to complete a declaration of acceptance of office within the proper time**
 - a) This must be done before or at the first meeting of the Council after his election.
 - b) If the council permit at that meeting the declaration may be done at a later meeting fixed by the council.
 - c) If the declarations are not signed, then the effective date of the vacancy is the closing date for making declarations of acceptance of office.
- 2. When a notice of resignation has been received**

- a) A Councillor may at any time resign their office by written notice delivered to the Chairman of the Community, Parish or Town Council. There is no special form for the notice.
- b) There is no procedure for withdrawing a notice of resignation once it is made.
- c) There is no need to report the resignation to the council for it to take effect.
- d) The resignation takes effect upon receipt, and this is the effective date of the vacancy.

3. Death of a Councillor

The vacancy is deemed to have occurred on the date of the death.

4. Ceasing to be qualified (different to 'becoming disqualified')

- a) This would normally only occur where a councillor had used their electoral registration as their only qualification for nomination and where that qualification has been lost because they have ceased to be on the register of electors i.e. have moved out of the area.
- b) As noted above, all other qualifications, as given on the nomination form continue for the full term of office. The council must declare the vacancy forthwith, and the vacancy is deemed to have occurred on the date of this declaration.

5. Becoming disqualified

- a) Being subject to an interim bankruptcy restrictions order, a bankruptcy restrictions order, an interim debt relief restrictions order or a debt relief restrictions order.
- b) Employment - holding office in the community, parish or town council or holding a paid office under the authority, including joint boards or committees
- c) Failure to register or declare disclosable interest, Localism Act 2011
- d) 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
- e) Disqualified under the Representation of the People Act 1983 for corrupt or illegal electoral practices

6. Failure to attend meetings

If a Councillor fails throughout a period of six consecutive months from the date of their attendance to attend any meeting of the council (including committees, sub-committees or as a representative of the council), they shall, unless the failure was due to a reason approved by the council before the expiry of that period, cease to be a member of the council. The effective date of the vacancy is the date declared by the council.

By-election

Notice of a 'casual vacancy' will be displayed within the parish area for 14 days during which 10 electors of the parish can demand that a poll takes place.

This by-election is organised by the District/Borough council but paid for by the community, parish or town council. If a casual vacancy arises within six months of an ordinary election, then a by-election is not held.

After an Election

Once elected, a councillor must sign a 'Declaration of Acceptance of Office' within a specified time. This must be done at or before the first meeting attended after the election, or if the councillor is not present, the council may at that meeting permit signature at or before a subsequent meeting. If the declaration is not signed at the proper time the councillor automatically loses office and a vacancy occurs.

To avoid an accidental vacancy arising in this way, the Clerk should make sure that all newly elected councillors sign their declarations as soon as possible, maybe at the count or before the first meeting.

Attachments

Timetable for Local Elections in England: 4 May 2023

Job Description of a Councillor

Person Specification

Case Study - Kimpton Parish Council

Next Steps for Clerks