

Legal requirements for persons wishing to be elected to the Council

Qualification and Disqualification Legislation

1. Legislation

- 1.1 The Local Government Act 1972, sections 79 to 82, 85, 92 and 104 and the Local Government Elections (Changes to the Franchise and Qualifications) Regulations 1995 (S. I. No. 1948)

2. Qualifications

- 2.1 A person is qualified to be elected as a local councillor, and to hold such office, if he/she is a British subject, or citizen of the Republic of Ireland or a relevant citizen of the European Union, and on the relevant day (defined below) has attained the age on twenty-one years AND -
 - (a) on that day he/she is, and thereafter continues to be, a local government elector for the area of the authority; or
 - (b) he/she has during the whole of the twelve months preceding that day occupied, as owner or tenant, any land or other premises in that area; or
 - (c) his/her principal or only place of work during that twelve months has been in that area (Note: this could be ;the local council offices; ; based on his/her previous work as a councillor); or
 - (d) he/she has during the whole of those twelve months resided in that area; or
 - (e) he/she has during the whole twelve months preceding the relevant date resided either in the parish or within three miles of it.
- 2.2 In this section, the expression 'citizen of the European Union' shall be construed in accordance with Article 8.1 of the Single European Act 1986 (as amended by Title II of the Treaty of Maastricht of 1992) and relevant citizen of the Union means such a citizen who is not a Commonwealth citizen or a citizen of the Republic of Ireland.
- 2.3 The 'relevant day' means (except in the case of an election not preceded by the nomination of candidates), the day on which the person is nominated as a candidate and also, if there is a poll, the date of the election. In the excepted case, the term means the day of election
- 2.3 In order to qualify on the basis of residence it is necessary for the person to have at least to have a sleeping apartment within the area or within three miles thereof; and it is permissible for a person (e.g. a student) to be resident in more that one place at a time.
- 2.4 A member qualified under (b), (c), (d) or (e) continues to be qualified during the term of his/her office even though he/she ceases to be an elector or his/her situation is otherwise changed. However, a councillor qualified on the day of nomination and election only by virtue of his/her being a local government elector must continue to be a local government

elector for the area of the parish during the whole period of his/her office. Note that registration on the electoral roll is essential to qualification as a local government elector.

3. Disqualifications

3.1 A person is disqualified for being elected as a local councillor or being a member of a local council if he/she -

- (a) holds any paid office or employment of the local council (other than the office of chairman, vice-chairman or deputy chairman) or of a joint committee on which the council is represented;
- (b) is a person who has been adjudged bankrupt, or has made a composition or arrangement with his/her creditors (but see below); or
- (c) has within five years before the day of election, or since his/her election, been convicted in the United Kingdom, the Channel Islands or the Isle of Man of any offence and has been sentenced to imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine; or
- (d) is otherwise disqualified under Part III of the Representation of the People Act 1983 for corrupt or illegal practices.

3.2 The disqualification for bankruptcy ceases in the following circumstances –

- (a) If the bankruptcy is annulled on the grounds that either the person ought not to have been adjudged bankrupt or that his/her debts have been fully discharged;
- (b) If the person is discharged with a certificate that the bankruptcy was caused by misfortune without any misconduct on his/her part;
- (c) If the person is discharged without a certificate.

In (a) and (b) above, the disqualification ceases on the day of annulment and discharge respectively. In (c), it ceases on the expiry of five years from the date of discharge.

3.3 The disqualification for composition or arrangements with creditors ceases on payment of the debts in full or on the expiry of 5 years from the date on which the terms of the composition or arrangement are fulfilled.

3.4 A person who is disqualified from being elected or holding office as a member of a local council is also disqualified for being a member of a committee or sub-committee of that council or for being a representative of the council on a joint committee involving that council (section 104, Local Government Act 1972).