

For many local councils in England (but not all) 2023 will be an election year. Most clerks approach elections with mild apprehension and some with a distinct sense of jeopardy. There's a fair bit to do and, inevitably, even if you have done it before it's usually four years since you last did it. The purpose of this article is to run through the key actions and deadlines for local council clerks (and others) both in electoral law and local government law, to signpost further sources of information and advice and to identify some of the potential pitfalls.

Let us take the process in three main stages – the first is preparation for the election – the period up to Monday 27 March and the publication of the notice of election. The second is between 27 March and 4 May (polling day) and the third is from the declaration of results until the annual meeting of Council (this year that meeting cannot take place before Monday 15 May 2023) – with a couple of tasks for councillors to complete by early June.

### **Stage 1 Preparation for the Election**

By the time you read this you will be well into the election run-up. Remember you're not running the parish council election – the Returning Officer and elections team at your district or unitary council are. Election teams vary in how they share guidance with town and parish clerks and in the role they ask clerks to play in the process. By now you should have heard from the elections team and have some guidance and/or been invited to a briefing meeting. If not, or if any of the guidance is unclear, contact the elections team and ask. Be patient, the team will be small and very busy, but don't be afraid to follow-up any unanswered query. Top tip – follow the guidance the elections team offer. Just before 27 March the elections team will send you notice(s) of election for display – these should be displayed in accordance with the elections teams instructions on or before the date given on the notice.

Other things that you might be getting on with during this early period include preparing induction materials for new councillors. At the minimum you will need, for every councillor, a declaration of acceptance of office form, a copy of the code of conduct and a register of interest form and (assuming you intend to send agendas etc. out by email) a consent form for councillors to receive papers electronically. In an ideal world you will also be providing Standing Orders, Financial Regulations, Scheme of Delegation, other policies, training dates and information about the Council. Taking the opportunity to get all these documents in order before the election is time well spent (it's a matter of your judgement and council resources whether you provide paper copies, electronic versions or both). Planning training opportunities for new councillors (and existing ones), particularly on the code of conduct, will also reap benefits. Your county association is your first port of call and will hopefully have published a series of training dates; make sure you know when they are and book the councillors in as soon as you can. Remember that there are other training providers too.

### **Stage 2 After the Publication of the Notice of Election**

Once the notice of election has been published Clerks' experience of the elections process differs widely. In larger politicised councils you might not be concerned at all with the nomination process (political parties take the lead); in smaller councils you might come under pressure to facilitate the nomination process for potential candidates (especially candidates who are currently serving councillors). It is a very small window (just over a week) for candidates to submit their nomination papers. The expected deadline is 4pm on Tuesday 4 April. At this stage there are some potential pitfalls for a clerk. Some elections teams ask clerks to make nomination papers available to potential candidates; nothing wrong with that particularly if it saves candidates a journey to the principal

council's offices. However, a difficulty comes when clerks are then asked for advice on how to complete the forms. The proper source of advice for a candidate is the elections team though there is also very full advice for candidates published on the Electoral Commission website under the heading "Parish council elections in England". You should be generous in signposting candidates to the proper sources of advice and wary of offering your own opinion. If you are an elector in the parish area you serve you may be tempted to sign nomination papers as a proposer or seconder of a candidate. I'm not aware of any legal obstacle to a clerk doing this but since it compromises the independence of the post it is not considered good practice.

Hard copies of nomination papers need to be delivered by hand by the deadline and at the location specified in the notice of election. The deadline is absolute – late nomination papers will not be accepted. Clerks sometimes feel pressure to deliver the papers on behalf of candidates and should resist it; the role of the clerk is to make sure, where possible, that candidates understand the deadline and encourage candidates to hand deliver their papers in person, in good time.

There is also the question of "purdah" – the word makes it sound mysterious but it is probably better than the phrase "period of heightened sensitivity" which is how the "Code of Recommended Practice on Local Authorities Publicity" describes it. Put simply "purdah" is the period from the publication of the notice of election until after the election. During this time the council should remain completely neutral. Publicity that might be perceived as influencing public opinion and conferring an advantage to one set of candidates (usually existing councillors) over other candidates should be avoided. For this year's elections purdah starts on or before 27 March.

The statement of persons nominated will be published within 24 hours of the deadline for the delivery of nomination papers – you should expect to be displaying it the next day (6 April). Hang on to a copy for your own records particularly if it shows candidates' home addresses – if they are elected you will need that information.

When the nominations are known it will be clear to some councils that theirs will be an uncontested election; one in which the number of candidates is the same as, or fewer, than the number of places available for election. In this case there will be no ballot but the timetable remains the same as for a contested election. The councillors elected in an uncontested election take office on Tuesday 9 May. Councillors must make their declarations of acceptance of office on or after 9 May.

If the number of councillors elected in an uncontested election is fewer than the number of seats on the council but enough to provide a quorum (three or one third of the total number of seats whichever is the greater number) then, the council can fill the vacancies by co-option without needing to advertise them. If, however, the number of councillors elected is insufficient to provide a quorum then the council cannot function and the clerk must refer the matter to the district or unitary council.

### **The Coronation Weekend**

The long weekend immediately after the 2023 elections to celebrate HM the King's coronation on Saturday 6 May means that some council election results will not be declared until after the weekend. Make sure you know when your elections team have scheduled the count for your council and plan accordingly. For civic and ceremonial purposes it is useful to remember that existing councillors remain in office until the Sunday after an election whether or not they have been re-elected. Importantly the Chair of the Council (or Town Mayor if so called), whether or not re-elected, remains in office until the annual meeting of council.

### **Stage 3 After the Declaration of Election Results**

If you can attend the election count, do so, and meet your new councillors as soon as their result is declared – get their contact details immediately and share as much documentation as seems sensible. Remember a candidate can choose that their home address not be published and you might find that you have new councillors that you cannot contact until the elections team provide you with their addresses and, based on my 2019 experience, the team will not necessarily do this automatically.

An elected councillor must make a declaration of acceptance of office at or before the first meeting after the election or at a later meeting if the council agrees. If it is necessary for a council to agree a later date make sure that the resolution is specific about which councillor(s) it covers and gives a clear deadline. If a councillor does not make a declaration of acceptance of office and the council has not agreed a later date then the seat becomes vacant and a notice of casual vacancy will need to be published. Councillors do not have to wait until the meeting to make their declaration – they may make it in front of you at any point before that meeting. They may also make it in front of another councillor. In all cases a declaration of acceptance of office form must be properly completed and signed and you should keep it safely.

Once you know who your new councillors are and their contact details then you can issue the summons for the annual meeting of council. In the table below I have indicated that the earliest date for the annual meeting of council this year is 15 May. That assumes results are declared on or before Tuesday 9 May and that the summons is issued on that date. If the results are likely to be delayed beyond 9 May then the annual meeting should be scheduled for later. If a councillor has not yet given consent to receive papers by electronic means then you must post, or deliver, the summons to the councillor's home address.

Finally, and specific to elections – councillors have a duty to make a return to the elections team about their election expenses (even if the expenses were nil) plus they should return a completed register of interest, both within 28 days of the election. This is their personal responsibility – but it is helpful if you remind them.

**Table: Summary of Key Dates for Parish Council Elections in England 2023**

| <b>Date</b>                                       | <b>What needs to be done?</b>                 | <b>By whom?</b>       | <b>What should a clerk do?</b>                                                 |
|---------------------------------------------------|-----------------------------------------------|-----------------------|--------------------------------------------------------------------------------|
| Not later than<br><b>Monday 27 March</b>          | Publication of notice of election             | The elections team    | Display notices as requested by elections team                                 |
| By 4pm<br><b>Tuesday 4 April</b>                  | Delivery of nomination papers                 | Individual candidates | Remind any candidate of the (absolute) deadline See article text for pitfalls. |
| Not later than 4pm on<br><b>Wednesday 5 April</b> | Publication of statement of persons nominated | The elections team    | Display notices as requested                                                   |
| Not later than<br><b>Tuesday 25 April</b>         | Publication of notice of poll                 | The elections team    | Display notices as requested                                                   |
| <b>Thursday 4 May</b>                             | Polling Day                                   | The elections team    | No action required                                                             |
| No earlier than<br><b>Tuesday 9 May</b>           | Issue summons (and publish agenda) for        | The clerk             | Issue agenda as normal with three                                              |

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|-------------------------------------------------------------|-----------------------------------------------------------------------------------------------|-------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                             | the annual meeting of Council                                                                 |                                                                         | clear days between date of summons and date of meeting. See article text for some pitfalls                                                                    |
| After election results and before Annual Meeting of Council | Declaration of Acceptance of Office                                                           | All councillors                                                         | Make opportunities for Declaration of Acceptance of Office. Include an agenda item for annual meeting of council to authorise late declarations if necessary. |
| No earlier than <b>Monday 15 May</b>                        | Annual meeting of Council                                                                     | All councillors (having made their declaration of acceptance of office) | Clerk the meeting                                                                                                                                             |
| <b>Thursday 1 June</b>                                      | Delivery of return as to election expenses<br><br>Delivery of completed Register of Interests | All councillors                                                         | Remind councillors of the deadlines                                                                                                                           |