



# Derbyshire County Council By-Election 24 September 2015 Nomination Pack

This pack is for candidates wishing to stand as a Councillor in a District or County Council election.

It is not intended as a comprehensive statement of the law. Candidate's Agents should always consult the Returning Officer in case of doubt.

You must print off the forms in this pack before submitting them.

The following papers must be delivered **by hand**:

- 1a. Nomination Paper
- 1b. Candidate's Consent to Nomination

The following papers can be delivered **by hand or by post**:

2. Certificate of Authorisation
3. Request for a Party Emblem
4. Notification of Election Agent

Printed and published by Derbyshire Dales District Council Electoral Services,  
Town Hall, Matlock, Derbyshire. DE4 3NN  
Telephone: 01629 761335  
Email: [electoral@derbyshiredales.gov.uk](mailto:electoral@derbyshiredales.gov.uk)

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- Notice of Election Agent
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# 1. Can you stand for election?

## Qualifications for standing for election

1.1 On the day of nomination and forward to the date of poll, you must:

- Be at least 18 years old on the day of your nomination
- Be a British citizen, an eligible Commonwealth citizen or a citizen of any other member state of the European Union
- Meet at least one of the following four qualifications:-
  - You are, and will continue to be, registered as a local government elector for the Council area in which you wish to stand from the day of your nomination onwards
  - You have occupied as owner or tenant any land or other premises in the Council area during the whole of the 12 months before the day of your nomination and the day of election
  - Your main or only place of work during the 12 months prior to the day of your nomination and the day of election has been in the Council area
  - You have lived in the Council area or within three miles of it during the whole of the 12 months before the day of your nomination and the day of election

## Disqualifications

1.2 Apart from meeting the qualifications for standing for election, you must also not be disqualified from standing. There are certain people who are disqualified from being elected to a District or County Council. You cannot be a candidate if at the time of your nomination and on the day of the election:

- You are employed by, or hold a paid office, under the Council in which you seek to stand
- You are the subject of a bankruptcy restrictions order or interim order
- You have been 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.
- You have been disqualified under the Representation of the People Act 1983 (which covers corrupt or illegal electoral practices and offences relating to donations) or under the Audit Commission Act 1998

- 1.3 A person may also be disqualified from election if they have been disqualified from standing for election to a local authority following a decision of the First-tier Tribunal (formerly the Adjudication Panel for England).

The full range of disqualifications is complex and if you are in any doubt about whether you are disqualified, you must do everything you can to check that you are not disqualified before submitting your nomination papers. You must be sure that you are not disqualified as you will be asked to sign one of the required nomination papers to confirm that you are not disqualified. It is a criminal offence to make a false statement on your nomination papers as to your qualification for being elected, so if you are in any doubt you should contact your employer, consult the legislation or, if necessary, take your own independent legal advice. The Returning Officer will not be able to confirm whether or not you are disqualified.

## 2. Standing for election

### Completing your nomination papers

- 2.1 To become nominated as a candidate at a Local Government election, you need to submit a completed set of nomination papers to the Returning Officer. The start date from which you will be able to submit nomination papers, as well as the times and place for delivery, will be set out in the Notice of Election published by the Returning Officer.
- 2.2 There are two parts to the nomination paper that you must submit for your nomination to be valid:
- The nomination form
  - Your consent to nomination
- 2.3 There is a copy of the nomination form and consent form included within this Pack.
- 2.4 If you are unable to complete the nomination form then the Returning Officer can help by preparing the form for your signature.
- 2.5 The Returning Officer can also provide informal checks of your completed nomination papers before you submit them.

### The nomination form

- 2.6 By law, a nomination form must be completed in English. The form must contain:-
- **Your full name.** This means your surname and other names in full. Using initials only could lead to your nomination paper being rejected. Also, do not use prefixes such as Mr, Mrs, Dr or Cllr as part of your name. The same applies to suffixes. However, if you have a title, you can use this as your full name. For example, if your actual name is John Smith, but your hereditary title is the John Bedford, then you can use the name John Bedford as your full name.

- Your full home address:-
  - Must be completed in full
  - Must not contain abbreviations
  - Must be your current home address
  - Must not be a business address (unless you run a business from your home)

Unless you are relying on the qualification of being registered as an elector for the Local Government area, your home address does not need to be in the Local Government area in which you wish to stand. If you are relying on the qualification of having lived in the area (or within 3 miles of it) for the whole of the last 12 months, then your home address must be in the area (or within 3 miles of it).

- Signatures of registered electors (known as a proposer and seconder) from the Local Authority area, or from the local Ward / County Council Division. Your proposer and seconder must be on the electoral register that is in force for nominations.

The electors will sign and print their names as proposer and seconder. The elector numbers of the proposer and seconder as they appear on the electoral register, including the distinctive numbers or letters of the polling district, must be entered on the nomination form. The distinctive numbers/letters of the polling district can be found at the front of the register.

Each elector may not subscribe more nomination forms than there are vacancies. For example, if there are two vacancies in a District Council Ward or County Council Division, an elector may subscribe up to two candidates' nomination forms in that Ward / Division. If three candidates submit nomination forms signed by the same person, the two that were submitted first will be accepted, but the third will be invalid. You should, therefore, always enquire, before asking a subscriber to sign your form, if they have already signed someone else's.

## 2.7 The following is optional:

- **A commonly used name** – if you commonly use a name that is different from your actual name and you wish this to appear on the ballot paper, you need to state this on the nomination form.

In addition to the ballot paper, the commonly used name would also appear on the statement of persons nominated and notice of poll.

The Returning Officer will disallow commonly used names that are likely to mislead or confuse electors, or are obscene or offensive. If the name(s) are not permissible, the Returning Officer will write to you stating the reason for rejection. In those cases, your actual name will be used instead.

You can request to use a commonly used forename, surname or both. For example you may be known by your abbreviated name 'Andy', rather than your full first name 'Andrew'. In that case, you can write 'Andy' in the commonly used forename box on the nomination paper if you would rather that name appear on the ballot paper.

You may also use initials as part of your commonly used name if you are commonly known by them.

If either the commonly used forename or surname box on the nomination paper is left blank, then your actual forename or surname will be used.

It is an offence to give a false statement on your nomination papers. Therefore, if you choose to provide a commonly used name you must ensure that it is a forename or surname which you commonly use.

- **A description** – 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', 'member of the 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. If you are in any doubt about whether your description exceeds six words, you should contact the Returning Officer for advice.

Remember that the description is optional and you may choose not to have a description at all by leaving this part of the form blank.

## Consent to nomination

- 2.8 You must also formally consent to your nomination in writing. The content of the consent to nomination form is fixed by law and the entire form must be returned in order for your nomination to be valid. On the form you will be asked to state that you are qualified and not disqualified from standing. You must also state your date of birth.
- 2.9 You must meet at least one of the qualifications to stand for election as explained in Part 1 and are recommended to tick as many of the qualifications that apply.
- 2.10 You are not allowed to sign the consent to nomination form earlier than one calendar month before the deadline for submission. Your signature must be witnessed, and the witness must sign the form and give their full name and address. There are no restrictions on who can be a witness to the consent to nomination.

## Submitting your nomination papers

- 2.11 All nomination papers, including the consent to nomination, must be delivered to the Town Hall, Matlock between the hours of 10.00am – 4.00pm Monday to Friday from 19 August to close of nominations. We recommend that you or someone you trust hand-delivers them so that you can be sure they are delivered to the Returning Officer in time.
- 2.12 All nomination forms and consent to nomination must be **hand delivered. Items sent by post will not be considered as ‘delivered’.**
- 2.13 You should submit your nomination papers as early as possible to give the Returning Officer an opportunity to conduct an informal check and to give you sufficient time to submit new nomination papers should your first set contain any errors. **You are advised to make an appointment to deliver your nomination form. Please contact 01629 761335.**
- 2.14 The notice of election will be published on **19 August 2015** and this is the earliest date on which you can submit nomination forms. The notice of election will be published on [www.derbyshiredales.gov.uk/elections](http://www.derbyshiredales.gov.uk/elections) and in local libraries and Parish/Town Council notice boards as appropriate.
- 2.15 After you have submitted your nomination papers you will be sent a notice by the Returning Officer to let you know whether or not your nomination is valid.
- 2.16 If, after you have submitted your nomination form you change your mind and no longer wish to stand for election, you can withdraw, provided you do so by the deadline for withdrawal of candidature.

## Standing for a political party

- 2.17 If you wish to stand as a party candidate you will need to comply with the following additional points:
- A description – you can ask for either the party’s name as registered with the Electoral Commission, or one of the party’s registered descriptions to appear on the ballot paper underneath your name.

If you want to use a party name or description, you must submit alongside your other nomination papers a certificate that shows you are authorised to use the party’s name or description (known as certificate of authorisation). The certificate must be issued by the registered party’s Nominating Officer (or someone authorised to act on their behalf) and be received by the Returning Officer by the nominations deadline, **4.00pm, 27 August 2015.**

You should take particular care when completing the descriptions field on the nomination form. The party name/description used on the nomination form must exactly match the party name/description on the Electoral Commission’s online register of political parties at [www.electoralcommission.org.uk](http://www.electoralcommission.org.uk) If it does not, the whole nomination paper will be rejected. Note that you do not have to use a description. You may choose not to have a description at all by leaving the description field of the form blank.

## The certificate of authorisation

- 2.18 Political parties authorise candidates to stand for them by issuing a certificate of authorisation. This must state that the candidate may use one of the following:
- The exact party name as registered with the Electoral Commission
  - One of the party's registered descriptions
  - Your choice of either the registered party name or one of the registered descriptions
- 2.19 Particular care should be taken by the Nominating Officer (or someone authorised to act on their behalf) when completing the certificate of authorisation. If the certificate explicitly authorises a particular party name/description and this does not match the name/description on the nomination paper, the whole nomination will be invalid.
- 2.20 The certificate of authorisation must be signed by the registered Nominating Officer of the political party or by someone authorised by the Nominating Officer to act on their behalf.

## Request to use an emblem on the ballot paper

- 2.21 If you have been authorised by a political party to use the party name or a registered description on the ballot paper, you can also request that one of the party's official emblems is printed on the ballot paper next to your name.
- 2.22 You must make the request for an emblem in writing and deliver it to the Returning Officer. The request must be received by the Returning Officer. A form for this purpose is included in this nomination pack.
- 2.23 The request should state both the name of the political party and the description of the emblem to be used, as listed on the Electoral Commission's online register of political parties at [www.electoralcommission.org.uk](http://www.electoralcommission.org.uk). Registered emblems cannot be varied in any way.
- 2.24 Candidates standing on behalf of two or more registered parties and using a joint description can use only one emblem that has been registered by one of the relevant parties.
- 2.25 Only the certificate of authorisation and the emblem request form may be submitted by fax or other electronic means.

### 3. What happens after the close of nominations?

#### Statement of Persons Nominated

- 3.1 The Returning Officer will publish a Statement of Persons Nominated for the Council area, or for each Ward / Division if applicable. The statement will include:
- The full or commonly used name(s), as the case may be, of all candidates validly nominated
  - The name(s) of candidates who no longer stand nominated, if any (i.e. invalid and withdrawn candidates), with the reason why they are no longer standing
  - The address of each candidate
  - Each candidate's description (if any)

#### Being validly nominated in more than one ward

- 3.2 If the Council area is Warded and you are validly nominated in more than one Ward / Division then you must withdraw from all wards but one before the deadline for withdrawals. If you do not withdraw from all but one ward then you will be deemed to have withdrawn from all of the wards.

#### Withdrawing as a candidate

- 3.3 You may withdraw as a candidate by signing and submitting a withdrawal notice, which must be witnessed by one other person. Your witness must also sign the notice. A notice of withdrawal can be obtained from the Returning Officer.
- 3.4 The withdrawal notice must be submitted by the deadline. After the withdrawal deadline it is not possible to withdraw from the election and your name will appear on the ballot paper. If the election is uncontested, you will be declared elected.

#### Inspecting other candidates' nomination papers

- 3.5 From the close of nominations until the day before the poll, nomination papers that have been delivered are open to inspection during normal office hours and any member of the public can take a copy of them.

#### Will the election be contested?

- 3.6 After the close of nominations, the Returning Officer will establish whether or not there is a need to hold a poll. If there are more candidates than seats after the deadline for withdrawals then there will be a poll.
- 3.7 If, however, after the deadline for withdrawals the number of validly nominated candidates is less than or equal to the number of seats to be filled, those candidates are declared to be elected.
- 3.8 In this case, the Returning Officer will declare those candidates to be elected as soon as possible and will give public notice of the names of those declared elected.

## Death of a candidate

- 3.9 If the Returning Officer is notified of a candidate's death during the election campaign or even on polling day itself (but before the declaration of the result), the poll will be countermanded or abandoned.

The Returning Officer will, in that case, order a new election to fill the vacancy. The new polling day will be within 35 working days of the day fixed for the first election. Candidates already validly nominated do not have to be nominated a second time.

Should a fellow candidate die during the campaign, the Returning Officer will provide you with further guidance.

If an already elected candidate dies after the declaration of the result then a by-election would be needed to fill the vacancy.

## 4. The electoral register and absent vote lists

- 4.1 Once you officially become a candidate you are entitled to receive a free copy of the full electoral register and the lists of people voting by post or proxy ('the absent voters' lists') for the Local Authority area you are contesting.
- 4.2 The version you will receive will be the current one at the time of your application. You can also request the list of newly registered electors when it is published five working days before the poll.
- 4.3 The full electoral register and absent voters' lists contain people's personal data and so their use is very carefully controlled.

You can use them to:-

- Complete your nomination form
- Help you campaign
- Check that donations and loans from individuals are permissible

## Use of the Register

- 4.4 You must not release any details that appear only in the full register and do not appear in the edited version of the register which is available for general sale.

You must not:-

- Use the full register and absent voters' lists for any other purpose not listed above, or
  - Pass copies on to anyone outside your campaign (except for certain data processing companies)
- 4.5 If you have supplied a copy of the register or absent voters' lists to campaign workers, they must also comply with the requirements above.

## Applying for your copy

- 4.6 You must ask for your copy of the register and absent voters' lists from the Electoral Registration Officer, Derbyshire Dales District Council, Town Hall, Bank Road, Matlock, Derbyshire. DE4 3NN.
- 4.7 The request must be made in writing and request forms are contained in this nomination pack.
- 4.8 The register and lists will be supplied in electronic format unless you specifically request a paper copy.

## 5 Relevant Legislation

### Local Government Act 1972

#### **80. Disqualifications for election and holding office as member of local authority**

- (1) Subject to the provisions of section 81 below, a person shall be disqualified for being elected or being a member of a local authority if he -
  - (a) Holds any paid office or employment (other than the office of chairman, vice-chairman or deputy chairman or, in the case of a local authority which are operating executive arrangements which involve a leader and cabinet executive, the office of executive leader or member of the executive) appointments or elections to which are or may be made or confirmed by the local authority or any committee or sub-committee of the authority or by a joint committee or National Park authority on which the authority are represented or by any person holding any such office or employment; or
  - (b) Is the subject of a bankruptcy restrictions order or interim order: or
  - (c) [This has been removed and no longer applies]
  - (d) Has within five years before the day of election or since his election been convicted in the United Kingdom, the Channel Islands or the Isle of Man of any offence and has had passed on him a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine; or
  - (e) Is disqualified for being elected or for being a member of that authority under Part III of the Representation of the People Act 1983 or under the Audit Commission Act 1998.
- (2) Subject to the provisions of section 81 below, a paid officer of a local authority who is employed under the direction of –
  - (a) A committee or sub-committee of the authority any member of which is appointed on the nomination of some other local authority; or

(b) A joint board, joint authority, economic prosperity board, combined authority, joint waste authority or joint committee on which the authority are represented and any member of which is so appointed; shall be disqualified for being elected or being a member of that other local authority.

(2AA) A paid member of staff of the Greater London Authority who is employed under the direction of a joint committee the membership of which includes –

(a) One or more persons appointed on the nomination of the Authority acting by the Mayor, and

(b) One or more members of one or more London borough councils appointed to the committee on the nomination of those councils, shall be disqualified for being elected or being a member of any of those London borough councils.

(2A) Subsection (2) above shall have effect as if the reference to a joint board included a reference to a National Park authority.

(2B) For the purposes of this section a local authority shall be treated as represented on a National Park authority if it is entitled to make any appointment of a local authority member of the National Park authority.

(3) Subsection (1) (a) shall have effect in relation to a teacher in a school maintained by the local authority who does not hold an employment falling within that provision as it has effect in relation to a teacher in such a school who holds such an employment.

(4) For the purposes of subsection (1) (d) above, the ordinary date on which the period allowed for making an appeal or application with respect to the conviction expires or, if such an appeal or application is made, the date on which the appeal or application is finally disposed of or abandoned or fails by reason of the non-prosecution thereof shall be deemed to be the date of the conviction.

## **81. Exception to provisions of section 80**

(4) Section 80 (2) and (3) above shall not operate so to disqualify –

(a) Any person by reason of his being a teacher, or otherwise employed, in a school or other educational institution maintained or assisted by a county council for being a member of a district council by reason that the district council nominates members of the education committee of the county council.

## **Local Government Act 2000**

Persons disqualified by eligible tribunals. The following is the legislation that describes how persons disqualified by certain tribunals are disqualified from standing in local government elections.

### **78A. Decisions of First-tier Tribunal**

[(1) Deleted.]

- (2) Where the First-tier Tribunal adjudicates on any matter under this Act, it must decide whether or not any person to which that matter relates has failed to comply with the code of conduct of the relevant authority concerned.
- (3) Where the tribunal decides that a person has not failed to comply with the code of conduct of the relevant authority concerned, it must give notice to that effect to the standards committee of the relevant authority concerned.
- (4) Where the tribunal decides that a person has failed to comply with the code of conduct of the relevant authority concerned, it may-
  - (a) Take in respect of him any action authorised by regulations made by the Secretary of State for the purposes of this subsection, or
  - (b) Decide to take no action against him
- (5) Regulations made under subsection (4) may in particular –
  - (a) Enable the tribunal to censure the person,
  - (b) Enable it to suspend, or partially suspend, the person from being a member or co-opted member of the relevant authority concerned for a limited period,
  - (c) Enable it to disqualify the person, for a period not exceeding five years, for being or becoming (whether by election or otherwise) a member of that or any other relevant authority.
- (6) The reference in subsection (5)(b) to the relevant authority concerned is to be read, in relation to a person who is no longer a member or co-opted member of the relevant authority concerned but is a member or co-opted member of another relevant authority in England, as a reference to that other relevant authority.
- (7) Regulations made by the Secretary of State may require the First-tier Tribunal to give a notice to the standards committee of the relevant authority concerned where it decides that a person has failed to comply with the code of conduct of that authority and –
  - (a) Decides to suspend or partially suspend the person,
  - (b) Decides to disqualify the person,
  - (c) Decides to take action against the person other than suspension, partial suspension or disqualification, or
  - (d) Decides to take no action against him.
- (8) Regulations under subsection (7) may-
  - (a) Prescribe the content of any notice,
  - (b) Provide for the effect that any notice is to have,

- (c) Provide for provisions of the regulations to have effect with prescribed modifications where the person concerned is no longer a member or co-opted member of the relevant authority concerned, but is a member or co-opted member of another relevant authority in England.

## Localism Act 2011

Section 34(4) describes how a person may be disqualified from standing in local government elections under this section. The remaining provisions of section 34 do not directly affect a person's entitlement to stand for election

### 34 Offences

- (1) A person commits an offence if, without reasonable excuse, the person –
  - (a) Fails to comply with an obligation imposed on the person by section 30 (1) or 31(2), (3) or (7),
  - (b) Participates in any discussion or vote in contravention of section 31(4), or
  - (c) Takes any steps in contravention of section 31(8).
- (2) A person commits an offence if under section 30(1) or 31(2), (3) or (7) the person provides information that is false or misleading and the person –
  - (a) Knows that the information is false or misleading, or
  - (b) Is reckless as to whether the information is true and not misleading
- (3) A person who is guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) A court dealing with a person for an offence under this section may (in addition to any other power exercisable in the person's case) by order disqualify the person, for a period not exceeding five years, for being or becoming (by election or otherwise) a member or co-opted member of the relevant authority in question or any other relevant authority.
- (5) A prosecution for an offence under this section is not to be instituted except by or on behalf of the Director of Public Prosecutions.
- (6) Proceedings for an offence under this section may be brought within a period of 12 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to the prosecutor's knowledge.
- (7) But no such proceedings may be brought more than three years –
  - (a) After the commission of the offence, or
  - (b) In the case of a continuous contravention, after the last date on which the offence was committed.

- (8) A certificate signed by the prosecutor and stating the date on which such evidence came to the prosecutor's knowledge is conclusive evidence of that fact; and a certificate to that effect and purporting to be so signed is to be treated as being so signed unless the contrary is proved.
- (9) The Local Government Act 1972 is amended as follows.
- (10) In section 86(1)(b) (authority to declare vacancy where member becomes disqualified otherwise than in certain cases) after "2000" insert " or section 34 of the Localism Act 2011".
- (11) In section 87(1)(ee) (date of casual vacancies) –
  - (a) After "2000" insert "or section 34 of the Localism Act 2011 or", and
  - (b) After "decision" insert "or order".
- (12) The Greater London Authority Act 1999 is amended as follows.
- (13) In each of sections 7(b) and 14(b) (Authority to declare vacancy where Assembly member or Mayor becomes disqualified otherwise than in certain cases) after subparagraph (i) insert-  
“(ia) under section 34 of the Localism Act 2011”.
- (14) In section 9(1)(f) (date of casual vacancies) –
  - (a) Before "or by virtue of" insert "or section 34 of the Localism Act 2011", and
  - (b) After "that Act" insert "of 1998 or that section".