

Eligibility Criteria for election and holding office as a Councillor

Qualifications for election and holding office as a councillor:

Section 79(1) of the Local Government Act 1972 ("the 1972 Act") provides, unless disqualified (see paragraph 7 below) a person is qualified to be elected and to be a councillor if he is a qualifying Commonwealth citizen or an EU citizen and on the day on which he is nominated and, if there is a poll, the day of the election he is 18 years of age or over

and: a) on that day he is and thereafter he continues to be a local government elector for the area of the authority;

or b) he has during the whole of the 12 months preceding that day occupied as owner or tenant any land or other premises in that area;

or c) his principal or only place of work during that 12 months has been in that area;

or d) he has during the whole of those 12 months resided in that area;

or 2 e) in the case of a member of a parish or community council he has during the whole of those 12 months resided either in the parish or community or within three miles of it. [The Electoral Commission's interpretation of this provision (namely section 79(1)(e) of the 1972 Act) is that all persons qualify to be elected and to be a member of a parish or community council if they have resided for the relevant 12 months in the parish or community or within three miles of it.]

4. A person is a qualifying Commonwealth citizen if he is a Commonwealth citizen who either: a) is not a person who requires leave under the Immigration Act 1971 ("the 1971 Act ") to enter or remain in the United Kingdom, or b) is such a person but for the time being has (or is, by virtue of any enactment, to be treated as having) indefinite leave to remain within the meaning of the 1971 Act.

5. A person is not a qualifying Commonwealth citizen if he does not require leave to enter or remain in the United Kingdom by virtue only of section 8 of the 1971 Act (exceptions to requirement for leave in special cases).

6. A person is qualified for re-election under paragraph 3(c) if he is already a councillor. The Court of Appeal held in *Parker v Yeo* (1992) that being a councillor was "work" and that the work was carried on in the area where the councillor was an elected member. Disqualifications for election and holding office as a councillor

7. In accordance with section 80 of the 1972 Act, a person is disqualified from being elected or being a councillor if he:

a) holds any paid office or employment (other than the office of chairman, vice chairman or deputy chairman) to which he has been appointed by the council or any committee or sub-committee of the council, or by a paid officer of the council, or by any joint committee on which the council is represented;

or 3 b) is the subject of a bankruptcy restrictions order, an interim bankruptcy restrictions order, a debt relief restrictions order or an interim debt relief restrictions order under Schedule 4ZB of the Insolvency Act 1986;

c) has within five years before the day of election or since his election been convicted of any offence and sentenced to a term of imprisonment of at least three months (whether suspended or not) without the option of a fine; or

d) has been found guilty of corrupt or illegal practices, or was responsible for incurring unlawful expenditure and the court orders his disqualification. 8. In relation to paragraph 7(a) above, when dealing with an office of profit, it is irrelevant that no profit was actually received.