

6 Qualification and disqualification

6.1 Introduction

There are both party requirements and also certain legal provisions about who can and cannot be a local councillor.

The Labour party's rules state that:

'Nominees must be legally qualified, and not disqualified, to stand for the local authority at the election concerned. It is required of LGCs that they take steps to check on disqualifications under the relevant legislation as well as any party requirements when compiling their panel of prospective candidates.' NEC procedural rule D.iv.

and

'This party shall not accept as qualified for inclusion in its panel of approved candidates any sitting councillor whose sole legal qualification for standing for election in the local government area is existing service as a councillor.' NEC procedural rule D.viii.

6.2 Party expectations

In addition to meeting the legal requirements, the Labour Party expects that nominees for the panel of local election candidates should:

be normally resident in the area of the relevant local authority, and

hold their party membership in the area of the relevant local authority, and

have been members of the party for at least 12 months – although Local Campaign Forums may decide to make exceptions.

be a member of a trade union

6.3 Exceptions

It is within the discretion of the LCF/LGC to consider nominations from individuals otherwise legally qualified, but that discretion must only be exercised once a waiver has been granted by the NEC.

6.4 Legal provisions

In addition, there are legal provisions relating to qualification and disqualification.

Each nominee for the panel is required to sign a declaration confirming that he/she knows of no legal reason or party rule that would prevent him/her from being a candidate or being elected as a councillor in the local elections.

It is absolutely essential that every nominee is properly questioned to establish that s/he is both qualified and not disqualified. If there is any question about this – especially arising from employment – s/he must seek advice from the council's solicitor or take independent legal advice as appropriate before being appointed to the panel of approved candidates. The Party is not able to provide legal advice to prospective candidates about the qualifications and disqualifications. Every approved candidate must be reminded of the importance of remaining qualified and of checking the implication for qualification of any change in circumstance (eg employment).

6.5 Qualification

The law says that, on the day of nomination, you must:

have attained the age of 18 years, and

be a British subject or citizen of the European Union¹ and

be and thereafter continue to be on the electoral roll for the area of the authority², or during the whole of the previous 12 months have occupied, as owner or tenant, land or premises in that area, or

had your principal or only place of work in the area during the previous 12 months³, or

have resided in the area for the whole of the previous 12 months.

6.6 Disqualification

Certain people are disqualified from standing for election or from being a member of a local authority.

¹ A person is qualified to be elected if he/she is:

A British subject (includes persons who have the status of Commonwealth citizens under the 1981 Act and certain persons who had the status of British subject under earlier legislation);

A citizen of the Republic of Ireland;

A citizen of the European Union (ie not a Commonwealth citizen or a citizen of the Republic of Ireland, but a citizen of a member state of the European Union.)

² If only the electoral registration qualification is used, it would be necessary, if elected, to continue that electoral registration throughout the term of office.

³ The party does not accept as qualified in its panel of approved candidates any sitting councillor whose sole legal qualification for standing for election is existing service as a councillor – see NEC procedural rule D8.

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The law says that you are disqualified if, on the day of nomination, you:

are employed by the local authority or are a paid officer of the local authority. This disqualification may apply if you are employed in a local authority maintained school or by certain fire, police or health services.

Hold a politically restricted role in any local authority in Great Britain.

are subject to a bankruptcy restrictions order or an interim order made in connection with creditors (excludes Individual Voluntary Arrangements)

have been surcharged for more than £500 by the district auditor in the last five years

have been sentenced to a term of imprisonment (whether suspended or not) for three months or more, in the last five years

have been disqualified under Part III of the Representation of the People Act 1983 (this relates to donations offences and corrupt or illegal electoral practices), or under the Audit Commission Act 1998.

are disqualified by virtue of section 80 of the Local Government Act 1972 and/or the political restrictions provisions of the Local Government & Housing Act 1989.⁴

⁴ Broadly, anyone working for a public authority and who holds a politically restricted post will be ineligible, as will anyone who holds office or employment with the local authority for which the election is being held, or whose paid post is confirmed by that local authority. Restrictions may also apply to individuals working for an organisation which is significantly funded and/or controlled by the council, or party to a contract with the council or to another local authority which jointly funds their position. See separate section on conflicts of interest arising from employment.

7 Code of conduct for local government selections

This code of conduct has been produced for all potential candidates in the selection of candidates for the {name of local authority}, in order to assist the smooth running of all stages of the process.

No materials calling for support in the selection process will be produced or distributed by or on behalf of any individual prior to the publication of the timetable for selections in {name of local authority}.

Potential candidates who are on the approved panel of candidates are entitled to a list of ward secretaries from the Secretary of the Local Campaign Forum/Local Government Committee. Once shortlisted by a ward, potential candidates will be entitled to a list of eligible members for that ward from the CLP Secretary. In order to receive this list, potential candidates will have to pay the relevant CLP an administration charge of £5.

The list of eligible members (or list of Party Units and Affiliates) is supplied solely for the purposes of the current selection/election campaign of the aspiring candidate to which it is supplied and is not transferable to any other campaign or person or for any other use whatsoever. Use of the list for any other purpose will lead to disqualification as an aspiring candidate and potential further disciplinary action. The use of any other party data to which a candidate or their supporters have access to by virtue of holding another office (for example, a list of Labour Party members a candidate holds due to being a sitting councillor) should not be used for the purpose of the candidate's selection campaign; such use may lead to disqualification as a candidate and potential further disciplinary action. The selling or providing a list for commercial purposes will lead to disciplinary action which could result in expulsion from the Party.

Following publication of the timetable for a ward potential candidates are permitted to mail eligible members directly, as well as Labour Party Units and affiliated organisations, with any canvassing/promotional material.

No potential candidates or persons acting on behalf of any potential candidate will use their own material or access to publicity to disparage any other potential candidate.

Canvassing is specifically allowed following publication of the timetable and from this period onwards potential candidates may approach members personally or by telephone to seek their support. Contact with members must not be carried out in a manner likely to cause offence or be seen as applying pressure to any member.

No financial inducement or inducement in kind may be offered to attempt to secure support.

Only designated officers will be authorised to issue statements to the media about any aspect of the selection procedure, and then only after consultation with

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appropriate senior Party Officers. This does not preclude potential candidates undertaking press, Radio or TV interviews on other matters, though under no circumstances should any potential candidate disparage any other potential candidate.

Party staff will not use or abuse their position, Party resources or time in the process of an internal selection or election so as to further the interests of themselves or their personal preferred candidate(s). This does not preclude normal contact or general conversation undertaken in their capacity as a member of the Party. The General Secretary is answerable to the NEC for the conduct of staff in all internal elections.

Once a potential candidate has declared an interest in an elected position s/he cannot attend the part of any meeting that is dealing with selection business of the ward in question, unless specifically invited in their role as a potential candidate.

No potential candidate or members acting on her/his behalf will interfere with or put under duress any member in regard to how they vote at any stage during the process.

Potential candidates are regulated by the Political Parties, Elections & Referendum Act 2000. Donations and loans must be confirmed as being from permissible sources if they exceed £500, and must be reported to the Electoral Commission if they exceed £1,500. This includes the commercial value of "in kind" donations as well as money, and multiple donations of more than £500 given by the same source in a single calendar year which add up to more than £1,500. . Contact the Governance & Legal Unit for more information.

Any member breaching this code of conduct or knowingly allowing others to do so on her/his behalf will be liable for disciplinary action. The NEC will not hesitate to use its powers of disqualification and suspension to impose sanctions to enforce the code.

8 The role of the councillor – a job description

8.1 Responsible for:

representing people as a Labour Party member of the local council

helping to form or scrutinise policies to improve the lives and opportunities of people in the area

providing leadership and engaging in partnerships in their community

Duties will include representation, policy making, policy review, regulation of services, scrutiny of services, partnership working and consultation.

8.2 Key objectives:

to oversee the work of the council and ensure that quality public services are provided to local people, and that the services continuously improve and give best value

to seek improvements in the social, economic and environmental well-being of the area

to participate in community planning and the production of a corporate strategy and vision for the authority

to represent and act as an advocate for the people of the ward they represent

to provide community leadership and build partnerships with other agencies and organisations in the area

to promote the values and policies of the Labour Party

to act as a role model and local leader, including upholding the aims and values of the Labour Party at all times and to maintain the highest standards of personal probity, conduct, and political judgment

8.3 Key duties on the council:

to attend full council, the council executive and/or overview and scrutiny committee(s) and other committee meetings as necessary

to contribute effectively to the work of the council, in line with Labour group policy as appropriate

to help to decide service priorities and participate in agreeing and setting a budget, in line with Labour group policy

to monitor performance against targets in all areas of the council activity

to engage with local residents to consult them, feedback on council activity, take up their concerns as appropriate and be their voice in the council

8.4 Key duties within the community:

- to develop links with all parts of the community eg visiting schools, meeting local businesses, attending tenants' meetings, visiting local projects and community groups
- to conduct regular walkabouts in the ward to identify issues of concern and tackle nuisance eg fly-tipping, graffiti, abandoned cars
- to promote and represent the council in the local community and on community bodies (eg school governing bodies, residents associations)
- to conduct regular surgeries to allow constituents to raise issues of importance or personal concern with their elected representatives
- to take action on issues raised by constituents and lobby for resources for the ward within the constraints of the group's overall priorities and financial strategy for the council
- to attend local community events on a regular basis
- to support consultative arrangements organised by the council in the ward and its locality
- to provide regular newsletters and letters to help build relationships with the residents the councillor is elected to serve
- to promote Labour's values and represent the Labour party locally

8.5 Key duties within the Labour group:

- to participate actively in Labour group meetings and contribute to effective decision-making
- to assist in the formulation of the Labour group's strategies and policies, within a framework of national Labour Party policy
- to be a part of the Labour team working to deliver Labour's policies locally
- to support regular campaign and communications in the local community, raising the profile of Labour and its work for local residents
- to be an ambassador for the Labour Party

8.6 Key duties with the local branch Labour Party:

- to attend branch meetings and report and consult on all council activity undertaken
- to campaign with branch members on local issues
- to support policy discussion eg partnership in power, the big conversation
- to recruit new members and mobilise existing ones into action

to build a healthy party locally

9 The ethical framework

The Labour Party is committed to high standards of ethical behaviour and probity by its elected representatives and members. All Labour councillors need to ensure that all duties are performed in compliance with the highest standards of probity and integrity. Members must sign up to the local Code of Conduct, keep their register of interest up to date in the council and group office, ensure that all declarations of interest are made as necessary, and observe the high standards expected in public life. Guidance is available to elected members by the council, the appropriate standards board/commission of the nation, and the local government unit.

9.1 Code of Conduct for local government members and Labour Group register of interests

9.1.1 Code of Conduct for local government members

The Labour Party expects high standards of behaviour from its elected representatives. Our rules clearly state that competence and probity matter. In addition there are national frameworks of standards and ethics governing local government.

Chief whips are responsible for ensuring that our members are aware of the requirements of the standards framework, and that they maintain good standards of behaviour and probity as councillors.

Whips should ensure that:

all members are aware of and uphold the provisions of the code of conduct, are aware of the requirements of office and are aware of the standards framework.

all Labour members sign up to the local code as soon as they are elected.

all Labour members complete the register of interests held by the monitoring office and the register of interests held by the whip, and keep both up to date.

Any referral to a standards committee should be reported to the Governance & Legal Unit and to the regional office, Scottish Labour Party office or Welsh Labour Party office. The party has established a legal line to offer support to Labour councillors if they are referred to a standards body. The telephone number is 0207 803 3919 or email fgr@edwardsduthieshamash.co.uk

The Labour Party expects all its representatives to uphold the highest standards of integrity and probity in public life. Please support your members in complying with these requirements.

9.1.2 The ethical framework

An ethical framework for local government was established by the Local Government Act 2000, which requires ever-higher standards of behaviour and ethics from all councillors. The Labour Party takes this challenge very seriously indeed. Being a Labour councillor is an honour not a right, and all our representatives must meet the highest possible standards of conduct and behaviour – both individually and collectively – if they are to be worthy of the trust placed in them by those who have elected them. In addition it is clear our political opponents will use any opportunity to discredit our party through the behaviour of our councillors.

The role of the Chief whip therefore needs to include a focus on monitoring and promoting high standards of conduct, as well as the enforcement of group discipline and the management of council business.

The vast majority of Labour councillors are immensely committed, hard-working public representatives, and we must not let the opposition parties abuse the standards committee procedures for purely party political advantage.

What we need to do is spread the best practice of the many so that the few councillors who do not meet these standards do not let the others down, and are allowed the opportunity to improve their behaviour.

9.1.3 The rules framework

Council Code of Conduct

The Localism Act 2011 made substantial changes to the code of conduct. Local authorities must have in place a locally agreed code of conduct, which replace the 2007 standard code of conduct. They must also have in place arrangements under which allegations of a breach of the code can be investigated and decisions on allegations are made. These arrangements must include the appointment of at least one independent person. The Standards Board for England has been abolished and so breaches of the code must be dealt with internally.

The Localism Act also made it a criminal offence not to declare certain 'disclosable pecuniary interests' to the Monitoring Officer. These replace the old system of personal and prejudicial interests. A council may add whatever pecuniary interests it wishes to the list of those to be disclosed at the start of a meeting. However, there is a statutory list of interests that must be included.

This list is in 'The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012', and includes:

Any employment, office, trade, profession or vocation carried on for profit or gain.

Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of

M.

This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(3).

Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority—

(a) under which goods or services are to be provided or works are to be executed; and
(b) which has not been fully discharged.

Any beneficial interest in land which is within the area of the relevant authority.

Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.

Any tenancy where (to M's knowledge)—

(a) the landlord is the relevant authority; and
(b) the tenant is a body in which the relevant person has a beneficial interest.

Any beneficial interest in securities of a body where—

(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and

(b) either—

(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

Please refer to the full list and explanatory information in the statutory instrument here: <http://www.legislation.gov.uk/uksi/2012/1464/made>

If in any doubt about pecuniary interests and the new codes of conduct, councillors should seek advice from the Local Authority Monitoring Officer. In particular, written advice should be sought prior to a meeting on whether they must withdraw on an item of concern.

9.1.4 Party rules

Chapter 13 of the Party's rule book, governing Labour groups in local government, has been in effect since the annual meetings of Labour groups in 2000. It is now an enabling framework of basic minimum rules and requirements, within which groups will adopt standing orders and procedures most appropriate to the model of local governance in operation in their council.

Relevant extracts from the rules governing the behaviour of group members are given below. The responsibility for ensuring that members abide by the rules and standing orders rests with the Chief whip.

13.II.(2) A. Individual members of Labour groups and group observers

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To uphold the highest standards of probity and integrity

“The Labour Party requires its representatives to uphold the highest standards of probity and integrity and they shall be guided in those standards by advice from the NEC. The onus of responsibility for upholding those standards rests with the individual councillor and group observer. Specifically, it shall be the responsibility of the group whip to establish a register of interests in the form prescribed by the NEC, detailing for each member of the group and group observer his/her employment, financial interests in companies, membership of trade unions and other societies or organisations.

Labour councillors and members must at all times avoid not only wrong-doing but also the perception of wrong-doing. Therefore if there is any uncertainty regarding whether a declaration of interest is appropriate, Labour councillors and members must take the most open course of action and declare an interest or disclose all relevant circumstances, taking advice if necessary. The statutory provisions relating to the declaration of personal and prejudicial interests shall apply to full group meetings and other meetings of all or part of the Labour group (e.g. pre-committee meetings). Councillors and group observers are required to take appropriate actions in all those meetings in respect of any interest (e.g. an individual with a prejudicial interest in the item under discussion must declare that interest and leave the meeting while that item is under consideration).

(B) To comply fully with the statutory ethical framework

Members of the Labour group must sign and abide by any codes of conduct as may be agreed by the local authority from time to time. Members of the Labour group must sign any legal requirements relating to acceptance of office.

(C) To accept the rules and standing orders of the Labour group Members of the Labour group shall agree in writing to abide by the rules and standing orders of the Labour group, as agreed at the annual meeting of the group. Members of the Labour group must register as members of the Labour group under the provisions of the Local Government (Committees and Political Groups) Regulations 1990. Failure to do so within 14 days of a written request from an officer of the group shall automatically render that person outside the group for all purposes and ineligible to be or remain a party member (subject to the provisions of 6A.2 of the party's disciplinary rules). The general provisions of the constitution and rules of the party shall apply to this group.”

Therefore the key points to note are that:

13.II(2)(A)(ii) requires the chief whip to establish a register of interests of members of the group, detailing for each member of the group and group observer his/her employment, financial interests in companies, membership of trade unions and other societies or organisations. This is in addition to the statutory one held by the council's monitoring officer. The purpose of the whip's register is that the whip may ensure that

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members comply with the code and is aware of any interests that might affect the participation of a member of a group in a discussion or vote. A copy of the form for the group register is attached as an appendix.

13II.2(C)(i) and (ii) require members to agree in writing to abide by the rules and standing orders of the group and by any code of conduct issued by their authority, and to register as members of the Labour group. An officer of the group is required to request members to do this and it would be logical for this officer to be the Chief whip.

13.XIII gives the chief whip responsibility for the implementation of NEC guidance on disciplinary procedures and any possible breach of rule by a member of a Labour group.

The section 13.II. – Aims and Values – sets out the expectations the party nationally and local party members have of their locally elected representatives. This ranges from things like activities in the community, attendance at meetings and comradely behaviour to being a member of the Association of Labour Councillors and meeting all legal and statutory requirements. The chief whip will have a duty to ensure all members are abiding by these, and to watch for any members that may be having a difficulty in doing so, so that any necessary action may be taken.