

# Combined authority mayoral elections in England

(excluding Greater Manchester)

# Guidance for candidates and agents

## Part 1a of 6 – Can you stand for election?

September 2018

This document applies to combined authority mayoral elections in England (excluding Greater Manchester). It does not apply to any other mayoral election or to district, borough, county, county borough or unitary authority elections, parish or community council elections or elections to the Greater London Authority. Our guidance and resources for other elections can be accessed from our website at:

<http://www.electoralcommission.org.uk/guidance/resources-for-those-we-regulate/candidates-and-agents>.

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# Essential information

This section of the document contains our guidance on whether or not you can stand for election at a combined authority mayoral elections in England (excluding Greater Manchester). Separate guidance is available on our [website](#) on standing at the combined authority mayoral election in Greater Manchester.

Supplementary information, which may only be relevant to some candidates, is provided at the back of this document. You can view this supplementary guidance by clicking on the links within this document or by clicking on the chapter heading on the contents page.

In this document, we use 'you' to refer to the candidate. We use 'must' when we refer to a specific requirement. We use 'should' for items we consider to be minimum good practice, but which are not legal or regulatory requirements.

Deadlines mentioned in this document are generic and we have published a [generic election timetable on our website](#). If an election is called, you will be able to obtain a copy of the specific timetable for that election from the Combined Authority Returning Officer.

We are here to help, so please contact us if you have any questions.

See our [Overview document](#) for contact details.

This document also does not cover [local authority mayoral elections](#) or elections for the [Mayor of London](#).

You can access guidance for those elections through our website.

Revised data protection legislation applies from 25 May 2018 and will apply to the processing of all personal data.

Please contact the [Information Commissioner's Office](#) for further information about how the General Data Protection Regulation affects you.

# Qualifications for standing for election

1.1 To be able to stand as a candidate at a combined authority mayoral election in England, you must be:

- at least 18 years old on the day of your nomination<sup>1</sup>
- a British citizen, an [eligible Commonwealth citizen](#) or a citizen of any [member state of the European Union](#)<sup>2</sup>, and
- meet at least one of the following four qualifications:
  - a. You are, and will continue to be, registered as a local government elector within the combined authority area in which you wish to stand from the day of your nomination onwards. See paragraph [1.7](#) for further information.<sup>3</sup>
  - b. You have occupied as owner or tenant any land or other premises within the combined authority area during the whole of the 12 months before the day of your nomination and the day of election. For more details, see paragraph [1.8](#).<sup>4</sup>
  - c. 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 within the combined authority area. More information is provided in paragraph [1.15](#).<sup>5</sup>
  - d. You have lived within the combined authority area during the whole of the 12 months before the day of your nomination and the day of election. See paragraph [1.16](#) for further details.<sup>6</sup>

An **eligible** Commonwealth citizen is a Commonwealth citizen who either:

- does not need leave to enter or remain in the United Kingdom, or
- has indefinite leave to remain in the United Kingdom

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## Disqualifications

1.2 Apart from meeting the qualifications for standing for election, you must also not be disqualified.

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 Combined Authority Returning Officer will not be able to confirm whether or not you are disqualified.

1.3 You cannot stand for election if on the day of your nomination and on polling day:

- a. You are **employed by the combined authority or a constituent council** or hold a paid office under the combined authority or a constituent council. Note that you may be 'employed by or on behalf of the combined authority or a constituent council' if, for example, you work at certain schools, fire services or health services. This list is not exhaustive. For further information, see paragraphs **1.18** to **1.22**.<sup>7</sup>
- a. You hold a **politically restricted post**. For further details, see paragraphs **1.23** to **1.25**.<sup>8</sup>

A constituent council means a county council that is wholly or partly within the combined authority area, or a district council that is within the combined authority area.

- b. You are the subject of a **bankruptcy restrictions order or interim order**. For more information, see paragraph 1.26.<sup>9</sup>
- c. 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.<sup>10</sup>
- d. You have been **disqualified under the Representation of the People Act 1983** (which covers corrupt or illegal electoral practices and offences relating to donations). The disqualification for an illegal practice begins from the date a person has been reported guilty by an election court or convicted and lasts for three years. The disqualification for a corrupt practice begins from the date a person has been reported guilty by an election court or convicted and lasts for five years.<sup>11</sup>

1.4 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) or the Adjudication Panel for Wales.

## I am a councillor at a constituent council – can I stand?

1.5 A person cannot sit as both a combined authority mayor and a local councillor of a constituent council. If they are already an elected councillor and are subsequently elected as mayor, their office as councillor will become vacant. Equally, if someone stands as a candidate at the same time in both contests and is elected to both offices, their election as councillor will be disregarded and the office of councillor will be deemed to be vacant.

A constituent council means a county council that is wholly or partly within the combined authority area, or a district council that is within the combined authority area.

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## Supplementary information

### The qualifications

1.6 When completing your consent to nomination form you will be asked to indicate which qualifications you meet. You should indicate on the form all those qualifications that apply to you.

#### [a. Being a registered local government elector](#)

1.7 To be able to use this qualification, your name must appear on one of the registers of local government electors within the combined authority area you wish to stand in at the time of your nomination and throughout your term of office should you be elected. Unlike the other qualifications that must only be satisfied on the day of your nomination and on polling day, this is an ongoing qualification. We therefore recommend that if you meet any of the other qualifications as well, you also indicate this on your consent to nomination, which is one of the required nomination papers.<sup>12</sup>

#### [b. Occupying as owner or tenant any land or other premises within the combined authority area](#)

1.8 To be able to use this qualification, you must have occupied as owner or tenant any land or other premises within the combined authority area during the whole of the 12 months before the day of your nomination and before polling day.<sup>13</sup>

1.9 You must occupy 'land or other premises' to meet this qualification. The inclusion of the words 'other premises' can be taken as something other than land (i.e. some form of

structure). Because 'land' and 'other premises' are alternatives it is, in theory, possible for a person to meet this qualification by occupying land only. There are some structures that might, arguably, fall outside the term 'premises' (e.g. a tent, caravan, house boat or mobile home). However, a person occupying such a structure need only establish occupancy of the land on which, for example their tent, is located.

1.10 If the land or premises crosses a combined authority boundary, you are still eligible to stand in the combined authority. If two combined authorities are adjacent to each other and the land or premises is included in both areas, the land/premises is in the area with respect to both combined authorities.

1.11 You must also occupy the land or other premises as an 'owner' or 'tenant'. Ownership may be established by showing title to the land or premises in question. Tenancy is established by showing a lease over the land. In a number of circumstances, a lease will survive even though it has expired and the parties have failed to sign a new lease, and the tenancy survives through tacit agreement between the parties. Therefore, there may be circumstances in which a person's tenancy of land or premises might need to be established by evidence other than a current lease.

1.12 You must also have 'occupied' the land or premises. Therefore, in addition to establishing legal ownership or legal tenancy, you must establish that you have actually occupied the land or premises. This is a question of fact in each case. The interpretation of the term 'occupy' in other legal contexts suggests that it is not necessary for a person to be personally resident on the land or premises (which may in any event be covered by the qualification of 'lived in the combined authority area').



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1.13 However, it does require something to be actually done on the land or premises – an empty unlocked house cannot be described as 'occupied', for example. It also requires a sufficient degree of control to prevent others from interfering with the land or premises. If you have sub-let all of your land or premises to another person, this will point against you having 'occupied' it yourself.

1.14 Finally, you must have occupied the land or premises 'during the whole of the twelve months preceding' the day on which you are nominated and polling day. Whether an absence will prevent you from claiming that you have occupied the land or premises for the preceding year should be worked out by taking into account all other factors: for instance, whether you have allowed others to occupy the land or premises in your absence, and the reason for your absence.

## c. Your main or only place of work is in the combined authority area

1.15 To be able to use this qualification, your main or only place of work must have been within the combined authority area during the 12 months prior to your nomination and prior to polling day itself. You do not have to be in paid employment to qualify, as long as you satisfy the requirement of your main or only place of work being within the combined authority area. Councillors whose main or only job is being a councillor would be able to use this qualification, provided that their place of work is within the combined authority area.<sup>14</sup>

## d. Living in the combined authority area

1.16 To be able to use this qualification, you are not required to have lived at the same address for the whole of the 12 months before the day on which you are nominated, but you must have lived in the same combined authority area during the whole of those 12 months.<sup>15</sup>

1.17 If in the last 12 months you have lived at more than one address in the combined authority area, you should list on your consent to nomination, which is one of the required nomination papers, all of the addresses at which you have lived during that period. This qualification also requires you to live in the combined authority area from the date of nomination to polling day.

## Further information on certain disqualifications

### Employed by the combined authority or a constituent council

1.18 You are disqualified from standing as a candidate at a combined authority mayoral election if you hold any paid office or employment, where appointments or elections to it are or may be made by or on behalf of the combined authority or any of the constituent councils. This would be the case where your appointment:<sup>16</sup>

- has been made by the combined authority or any of the constituent councils
- may be made by the combined authority or any of the constituent councils
- has been made on behalf of the combined authority or any of the constituent councils (e.g. by a committee or sub-committee which has been given the power by the combined authority or any of the constituent councils to make such an appointment)
- may be made on behalf of the combined authority or any of the constituent councils (e.g. by a committee or sub-committee which has been given the power by the combined authority or any of the constituent councils to make such an appointment)

1.19 However, this disqualification does not apply to the office of mayor or deputy mayor of the combined authority or a constituent council.

A constituent council means a county council that is wholly or partly within the combined authority area, or a district council that is within the combined authority area.

1.20 If you are a teacher (or are a non-teaching member of staff) employed by a constituent council, or where the appointment could be made by or on behalf of a constituent council, you will be disqualified from standing for election as combined authority mayor.

1.21 As a general rule, if you work in the local public sector, you should seek advice from your employer's HR department to help you establish whether the disqualification would apply to you. Sometimes employment relationships can be complex and if this is the case for you, we recommend that you seek your own legal advice.

1.22 The disqualification of being employed by the combined authority or constituent council applies on both the date of your nomination and on polling day. If you were employed by the combined authority or constituent council, you must have resigned and served any notice period before the date of your nomination to avoid having a contract of employment with the combined authority or constituent council at that time.

## Politically restricted posts

1.23 If you are an employee of a local authority anywhere in Great Britain you must check that you do not hold a politically restricted post. If you hold a politically restricted post, you are disqualified from standing for election to any combined authority in England.

1.24 The posts that are politically restricted are:<sup>17</sup>

- the Head of the Paid Service
- the statutory chief officers (the chief finance officer, chief education officer, chief officer at certain fire brigades or the director of social services)
- non-statutory chief officers (including a person who, as respects all or most of the duties of their post, is required to report directly or is directly responsible to the local authority or any committee or sub-committee of the authority or the head of the authority's paid service)

- deputy chief officers (a person who, as respects all or most of the duties of their post, is required to report directly or is directly accountable to one or more of the chief officers)
- the monitoring officer
- officers exercising delegated powers
- assistants to political groups
- a sensitive post which meets one or both of the following duties-related criteria:
  - giving advice on a regular basis to the authority (including committees, sub-committees and joint committees on which the authority is represented)
  - speaking on behalf of the authority on a regular basis to journalists or broadcasters

1.25 You should check with the HR department of your employer if you are not sure whether you hold a politically restricted post.

## Bankruptcy restrictions or interim order

1.26 Bankruptcy in itself is not a disqualification. If you have been adjudged bankrupt by a court in England, Wales or Northern Ireland, you are not disqualified on that basis. However, you are disqualified if you are currently subject to any of the following:

- an interim bankruptcy restrictions order
- a bankruptcy restrictions order
- an interim debt relief restrictions order
- a debt relief restrictions order

made by a court in England or Wales.<sup>18</sup> If the order was made in Northern Ireland, you should take your own legal advice since the law in this area is complex.

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- <sup>1</sup> Paragraph 8(1)(a) Schedule 5B Local Democracy, Economic Development and Construction Act 2009 (LDA 2009)
  - <sup>2</sup> Paragraph 8(1)(b) Schedule 5B LDA 2009
  - <sup>3</sup> Paragraph 8(2)(a) Schedule 5B LDA 2009
  - <sup>4</sup> Paragraph 8(2)(b)(i) Schedule 5B LDA 2009
  - <sup>5</sup> Paragraph 8(2)(b)(ii) Schedule 5B LDA 2009
  - <sup>6</sup> Paragraph 8(2)(b)(iii) Schedule 5B LDA 2009
  - <sup>7</sup> Paragraph 9(1)(a) Schedule 5B LDA 2009
  - <sup>8</sup> Section 1 Local Government and Housing Act 1989 (LGHA 1989)
  - <sup>9</sup> Paragraph 9(1)(b) Schedule 5B LDA 2009
  - <sup>10</sup> Paragraph 9(1)(c) Schedule 5B LDA 2009
  - <sup>11</sup> Paragraph 9(1)(d) Schedule 5B LDA 2009
  - <sup>12</sup> Paragraph 8(2)(a) Schedule 5B LDA 2009
  - <sup>13</sup> Paragraph 8(2)(b)(i) Schedule 5B LDA 2009
  - <sup>14</sup> Paragraph 8(2)(b)(ii) Schedule 5B LDA 2009
  - <sup>15</sup> Paragraph 8(2)(b)(iii) Schedule 5B LDA 2009
  - <sup>16</sup> Paragraph 9(1)(a) Schedule 5B LDA 2009
  - <sup>17</sup> Section 2, LGHA 1989
  - <sup>18</sup> Paragraph 9(1)(b) Schedule 5B LDA 2009