



The 2018 local elections

A guide for TUSC candidates and agents

- 1. Who can stand for election in May?**
- 2. Becoming a TUSC candidate**
- 3. The official nomination papers**
- 4. The Certificate of Authorisation & Emblems**
- 5. The Election Agent**
- 6. Rules on election spending**
- 7. Rules on donations to your campaign**
- 8. Getting the register of electors**
- 9. Using council buildings for public meetings**
- 10. Imprints on campaign material**
- 11. The election timetable – summary**

Appendix: Lessons from the Derby Court case

This document is a summary guide to the official regulations for candidates and election agents looking to contest the local council elections in the London boroughs and English metropolitan districts taking place on Thursday May 3rd.

The information it contains is based on the official guidance produced by the Electoral Commission, along with some tips and pointers drawn from the previous experience of TUSC election campaigners.

The guide explains the formal procedures that have to be followed to appear on the ballot paper in a local council election.

It also includes information on the procedures agreed by the Trade Unionist and Socialist Coalition national steering committee on how to become a TUSC candidate.

But on the official election regulations it is only a summary guide. For a full explanation of election law, applicable for all elections in England, Wales and Scotland, you should go to the Electoral Commission's website at: www.electoralcommission.org.uk/guidance/resources-for-those-we-regulate/candidates-and-agents

TUSC's National Election Agent, the National Nominating Officer registered with the Electoral Commission, is Clive Heemskerk. He can be contacted for advice at cliveheemskerk@socialistparty.org.uk or, during the day, on 020-89888773.

February 2018

1. Who can stand for election in May?

1.1 To be able to stand as a candidate at a local government election in England and Wales 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:

(a) You are registered as a local government elector for the local authority area in which you wish to stand from the day of your nomination onwards.

Note: "Local authority area" here means the council, not necessarily the local ward in which you are standing. This is a common source of confusion. So to be clear – if you are registered in New Town council you can stand for a seat in any ward on that council.

(b) You have occupied as owner or tenant any land or other premises in the local authority area during the whole of the 12 months before the day of the election.

(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 in the local authority area.

(d) You have lived in the local authority area during the whole of the 12 months before the election. You are **not** required to have lived at the same address for the whole of the 12 months, but you must have lived in the same local authority and you must be living in the local authority area from March 27th to polling day.

1.2 Apart from meeting the qualifications for standing for election, you must also not be disqualified from standing. You cannot be a local council candidate if at the time of your nomination and on the day of the election:

(i) You are employed by the local authority or hold a paid office where your appointment has been made, or could be made, by the local authority itself or by any joint committee where the local authority is represented. This means that you may be 'employed by the local authority', for example, if you work at certain schools, fire services, police or health services. But if you are a teacher (or are a non-teaching member of staff) at an academy school or a school maintained by a county council, you will be able to stand at elections to the district council.

(ii) You hold a politically restricted post such as a local authority statutory chief officer (for example, chief education officer, chief officer at certain fire brigades, or the director of social services).

(iii) You are the subject of a currently operative bankruptcy restrictions order or interim order.

(iv) 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.

Remember: the council's Returning Officer (to whom your nomination papers are submitted) will not be able to confirm whether or not you are disqualified so if you are in any doubt, you should seek advice.

2. Becoming a TUSC candidate

2.1 The Trade Unionist and Socialist Coalition (TUSC) was set-up in 2010 to enable trade unionists, community campaigners and socialists to stand candidates against the pro-austerity establishment parties.

2.2 Under Britain's election laws candidates can only appear on the ballot paper as an 'Independent' if they are not endorsed by a registered political party. That doesn't allow trade unionists or local anti-cuts campaigners to distinguish themselves as standing for something different to the mainstream. But using the TUSC name does.

2.3 TUSC is a coalition which contests elections around an agreed core policy platform. A local council core policies platform has been agreed for local elections, supplementing the TUSC platform agreed for the 2015 general election, and can be found on the TUSC website at <http://www.tusc.org.uk/policy>

2.4 Since 2010 over 2,000 candidates have stood under the TUSC umbrella. Local community groups, trade unionists and individual anti-cuts candidates who want to stand under the TUSC banner have autonomy to run their own campaigns. The only provision is that candidates are expected to endorse the TUSC elections policy platform.

2.5 Election candidates who wish to appear on the ballot paper on behalf of a registered party have to submit to the returning officer, along with their nomination forms, a Certificate of Authorisation to use a Party Description, signed by the registered Nominating Officer of the party.

2.6 TUSC has produced a form to process applications for a Certificate of Authorisation in local council elections. It is available on the TUSC website at <http://www.tusc.org.uk/candidate>

2.7 Submitting an application form for a Certificate of Authorisation will be taken as indicating a prospective candidate's agreement with the TUSC election platform.

What happens to candidate applications?

2.7 Applications are placed before the TUSC national steering committee, which reflects TUSC's character as a coalition. It includes official representatives of the RMT transport workers' union, and other leading trade unionists sitting in a personal capacity. The Socialist Party and elected representatives of TUSC individual members also have committee places. The steering committee operates by consensus.

2.8 Once applications are approved by the steering committee they will be posted on the TUSC website and, before the official opening of nominations on March 27th – or as soon as possible for applications received after that date – a TUSC Certificate of Authorisation will be sent to the candidate's local election agent (whose details should be included on the application form).

2.9 And that's it. You are now authorised to use the TUSC name and emblem on the ballot paper and in your election campaign material. Once, that is, you've completed the next stage, the official candidate nomination procedure...

3. The official nomination papers

3.1 To appear on the ballot paper as a candidate you will need to submit a completed set of nomination papers to the local council's Returning Officer by no later than **4pm on Friday 6th April**. This deadline is set out in law and cannot be changed for any reason. The start date from which the candidate or the local election agent will be able to submit nomination papers, as well as the times and place for delivery, will be set out in the official notice of election published by the council's Returning Officer no later than Tuesday 27th March.

3.2 Candidates or agents can obtain nomination papers from a council's local Electoral Services office. Alternatively, the national Electoral Commission has produced a set of nomination papers that can be used, available from its website at <http://www.electoralcommission.org.uk/i-am-a/candidate-or-agent/local-elections-england-and-wales>

3.3 To appear on the ballot paper as a TUSC candidate in a local election the following papers must be submitted to make a nomination valid:

- (i) The Nomination Paper.
- (ii) A candidate's Consent to Nomination form.
- (iii) The TUSC 'Certificate of Authorisation' giving the candidate permission to use the TUSC party name or a registered description on the ballot paper, signed by the TUSC National Nominating Officer.
- (iv) A written request to use one of the three TUSC emblems registered with the Electoral Commission, signed by the candidate.

3.4. The nomination paper must include:

- The candidate's full name. This means their surname and other names in full. Using initials only could lead to the nomination paper being rejected.

Note: There is space on the form to include a commonly used name if the candidate is usually known by a name that is different from their actual name and they wish this to appear on the ballot paper – for example, Liz instead of Elizabeth. But for this to appear on the ballot paper it must be stated on the nomination form. If the commonly used name box on the nomination paper is left blank, then the candidate's actual name will be used.

- The candidate's home address. This must be completed in full and must not contain abbreviations and it must be their current home address – which, remember, does not need to be in the ward.
- The signatures of ten registered electors (known as 'subscribers' in the jargon) in the ward where the candidate is standing. The subscribers must appear on the register that is in force on March 27th.
- A description. The candidate can ask for either the party's name as registered with the Commission (Trade Unionist and Socialist Coalition) or one of the registered descriptions to appear on the ballot paper underneath the candidate's name.

3.5 Each candidate's nomination form needs to be signed (subscribed) by ten electors registered in the ward. The first two electors sign and print their names as proposer and seconder, and the remaining eight as 'assenters'.

3.6 The elector number of each subscriber as it appears on the electoral register, including the numbers or letters of the polling district, must be entered on the nomination form.

3.7 Each elector may not subscribe more nomination forms than there are vacancies. For example, if there are two vacancies in a ward, an elector may subscribe up to two candidates'

nomination forms in that ward. 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. It is advisable therefore to enquire, before asking a subscriber to sign the nomination form, if they have already signed someone else's form.

3.8 The candidate's Consent to Nomination form must be completed in order for the nomination to be valid. The candidate must meet at least one of the qualifications to stand for election and it is advisable to state on the form as many of the qualifications as apply.

3.9 Candidates are not allowed to sign the consent form earlier than one calendar month before the deadline for submitting nomination papers, ie **March 6th**. The 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.

4. The certificate of authorisation & emblems

4.1 The certificate of authorisation will be sent out to the candidate's agent by the TUSC National Nominating Officer. It states that the named candidate can stand on behalf of TUSC and allow them to use one of the following:

- The exact party name as registered with the Commission, Trade Unionist and Socialist Coalition. This is the name the TUSC national steering committee is recommending that candidates use in this year's elections; or
- One of the party's registered descriptions. These include Trade Unionists and Socialists Against Cuts (and Scottish and Welsh descriptions).

But you should note: candidates do **not** need to choose the description Trade Unionists and Socialists Against Cuts to use the TUSC AGAINST CUTS emblem No.3 (see below). This is a common source of confusion. You can use that emblem while appearing on the ballot paper as Trade Unionist and Socialist Coalition.

4.2 The other form in the nomination pack to complete is the Request to Use an Emblem on the Ballot Paper form. TUSC has two registered emblems available to use, as below, and the TUSC national steering committee is recommending that candidates use Emblem No.3.



Emblem
No.1



Emblem
No.3

4.3 But it's your choice. (Emblem No.2, in case you're wondering, is a Scottish version of Emblem No.1). The Request to Use an Emblem on the Ballot Paper form must be **signed by the candidate**, not the local agent or the TUSC National Nominating Officer. Again, this is a common source of confusion. Once a candidate has received a Certificate of Authorisation from TUSC, they are responsible for their campaign, including choosing which emblem they want to appear on the ballot paper.

4.4 After nomination papers have been submitted candidates will be sent a notice by the Returning Officer to let them know whether or not their nomination is valid.

5. The election agent

5.1 The election agent is the person responsible for the proper management of the candidate's election campaign and, in particular, for its financial management. There are no particular qualifications needed to be an election agent and candidates can be their own agent if they wish. But a candidate must have an election agent. If they do not appoint an agent, they will become their own agent by default.

5.2 The nomination pack from the council's Returning Officer should include a declaration form to appoint an agent, which should be signed by the candidate and by the agent to show their acceptance of the appointment.

5.3 The form asks for the name, address and office address of the election agent. The agent can actually live anywhere but the office address – which can be someone's home address (the agent, the candidate, or another TUSC member) – must be within the same council area where the election is being held, or within a district (or a London borough) which adjoins the council.

5.4 It makes administrative sense to have one election agent for each local council, not least as a point of contact with the TUSC National Election Agent. But TUSC is a coalition of different political forces and it is totally acceptable for candidates from one political party in a council area, for example, to have one agent, while candidates from another party have their own. But there must be co-ordination – which is one reason why the TUSC rules call for local steering committees or branches to “be established, where possible, for local government areas where it is planned to contest seats” (see [How TUSC functions](#) on the TUSC website).

6. Rules on election spending

6.1 Candidates and their agents must follow certain rules about how much they can spend, who they can accept donations from, and what they must report after the election. The election agent has the main responsibility for complying with these rules. However after the election both the candidate and the agent must sign declarations to say that their spending and donation return is complete and correct to the best of their knowledge.

6.2 Candidate spending is expenditure on activities to promote a candidacy, or to criticise other candidates, during a particular period in the run-up to the election, the ‘regulated period’. The regulated period begins on the date someone officially becomes a candidate, which is when the official notice of election is published (**March 27th**). Someone officially becomes a candidate on that date if on or before then they have already declared themselves a candidate at the election (or another person has declared that they are a candidate – for example, on the TUSC website).

6.3 The spending limit for local elections for the regulated period is £740, plus 6p per local government elector in the ward. The local electoral registration officer will be able to provide the number of electors in the ward to make this calculation.

6.4 There are lower spending limits for joint candidates, ie where there are two or three TUSC candidates in the same ward. These are calculated by using the spending limit as explained above, and then reducing it by 25% – a quarter – if there are two joint candidates, or 33% – a third – if there are three or more joint candidates.

6.5 The costs of most campaigning activities count towards the spending limit, including leaflets, posters, newspaper adverts, websites or YouTube videos, mail-outs, offices and meetings. But meetings that are held mainly for purposes other than the candidate's election campaign, where

the candidate's attendance is incidental – for example, a regular TUSC group meeting – do not need to be included.

6.6 Election spending costs can include items only partly used for the election campaign, such as leaflets used both before and during the regulated period. These can be legitimately split between activities that count as candidate spending and those that don't but, unless a candidate's expenditure is going to be near the spending limit, it is probably easier to include the total cost of such 'split items' in the spending returns.

6.7 The election agent must record all election spending, and must keep invoices or receipts for any payments **over £20**. This means recording what the spending was for – for example, leaflets or a public meeting – the name and address of the supplier, the amount, and the date that the agent spent the money.

6.8 After the election, the agent must deliver a spending and donations return to the local returning officer by no later than **Thursday 7th June**. Both the agent and the candidate must also submit declarations that the return is complete and accurate. A return and declarations must still be submitted even if the candidate hasn't spent any money. This is called a 'nil return'.

7. Rules on donations to your campaign

7.1 Candidates can only accept contributions ('donations') of money, items or services towards their campaign spending from certain sources, known as 'permissible donors', and must report them to the local Returning Officer after the election. These include contributions towards a candidate's campaign spending from TUSC nationally, a local trade union branch, or the constituent organisations of TUSC. Anything with a value of £50 or less does not count as a donation.

7.2 'Permissible donors' include:

- An individual registered on a UK electoral register, including overseas electors;
- A registered political party – such as TUSC;
- A UK-registered trade union or one of its branches;
- A UK-based unincorporated association that carries on activities in the UK – such as the Socialist Party, one of the constituent organisations of TUSC, which is legally an 'unincorporated association'.

7.3 When an agent receives any donation of **more than £50**, the following information must be recorded:

- The donor's name and address.
- The amount of the donation.
- The date on which the donation was accepted

The donor's address must be recorded as it is shown on the relevant statutory register (this is the electoral register for an individual, the register of trade unions for a union branch etc). If the donor is an unincorporated association the main office address must be put (as there is no register of unincorporated associations).

7.4 If the donation isn't from a permissible donor, it must be returned within 30 days (with the dates of the receipt and return of the donation recorded). If the donation isn't returned, the agent will be deemed to have accepted it and the Electoral Commission may apply to the courts for it to be forfeited.

7.5 After the election the agent will need to report these details in the spending and donations return. A form for use for returns, and forms for the agent's and candidate's declarations, are usually included in the original nominations pack or, sometimes, sent out separately by the Returning Officer. They cover all the information that must be included.

8. Getting the register of electors

8.1 A candidate can start campaigning at any time. They do not have to wait until they are validly nominated to declare that they will run for election, publish campaign material, or canvass people for support. Doing the latter means getting hold of a copy of the electoral register.

8.2 Once someone has officially become a candidate, they are entitled to a copy of the register of electors and absent voters' lists for the ward they are standing in to complete their nomination form and for canvassing purposes. But the earliest someone officially becomes a candidate is when the official notice of election is published (**March 27th**).

8.3 Most council electoral services departments will release a copy of the electoral register to someone declaring themselves as a candidate or election agent before the official notice of election, once they have signed a legal assent form stating that the register will only be used for electoral purposes. But there have been cases of Returning Officers not giving the same leeway to local TUSC candidates and agents as they do the establishment parties. They cannot do the same nationally however.

8.4 Registered political parties are entitled to receive a copy of the full electoral register on request at any time so a local election agent designated by the TUSC National Nominating Officer is able to collect registers on behalf of prospective candidates before March 27th – another reason for sorting out who the local agent will be as soon as possible!

8.5 The register will be supplied in electronic format unless a specific request is made for a paper copy.

9. Using council buildings for public meetings

9.1 Election candidates are allowed to use schools and council maintained rooms for public meetings. The Electoral Registration Officer should keep a list of all suitable meeting rooms in their area and their availability, and should make this available for candidates and agents to inspect from the day of the notice of election.

9.2 To use this facility you will need to contact the owner of the premises to make a booking, giving reasonable notice to reduce the risk of the request being refused.

9.3 There is no hire charge for using these rooms, but you must pay for any expenses incurred, such as heating, lighting and cleaning and for any damage to the premises. Candidates' right to use rooms does not include hours during which a school is used for educational purposes. Equally, any prior letting of a meeting room takes precedence.

10. Imprints on campaign material

10.1 All campaign material must, by law, include an imprint to show who is responsible for its production. This means leaflets, posters, and also websites.

10.2 On printed material such as leaflets and posters you must include the name and address of:

- the printer
- the 'promoter' (the agent)
- the candidate – or the organisation (TUSC) if the leaflet is promoting a number of candidates – on behalf of whom the material is being published

10.3 An example of an imprint for a leaflet promoting an individual candidate would be:

Printed by [printer's name and address]. Promoted by [agent's name] of [agent's address], on behalf of [candidate's name] of [candidate's address].

If the candidate is also the agent, the promoter of the material, the 'on behalf of' part of the imprint is not required.

10.4 An example of an imprint for a leaflet promoting a group of TUSC candidates would be:

Printed by [printer's name and address]. Promoted by [agent's name] of [agent's address], on behalf of the TUSC candidates in [ward or council name].

10.5 There are rules on where the imprint must be put. If the material is single-sided – such as a window poster – it must be put on the face of the document. If it is multi-sided, the imprint must be put on the first or last page.

10.6 Imprints must also be included on electronic material, such as websites, Facebook pages, and emails. The imprint should include the name and address of the promoter and the organisation on whose behalf it has been produced.

11. The election timetable – summary

February and March

The TUSC national steering committee will be processing candidate applications on a weekly basis, with those approved posted up on the TUSC website at the beginning of each week. Certificates of authorisation will be sent out to agents by the end of March.

March 6th – The first date on which candidates' can sign their official Consent to Nomination form (see paragraph 3.9)

Tuesday March 27th – The official Notice of Election is published. This is the first day of the 'regulated period' for candidates' election spending (see paragraph 6.2). Candidate nomination papers can be handed in from this point.

April

Friday April 6th – The deadline for the delivery of nomination papers (**4pm**). This is also the deadline for the appointment of election agents.

May

Thursday May 3rd – Polling day (7am to 10pm)

June

Thursday June 7th – Deadline for the delivery of election spending returns to the council's Returning Officer.

Appendix:

Lessons from the Derby court case

In December last year Chris Fernandez, the local election agent for eight Trade Unionist and Socialist Coalition (TUSC) candidates at the 2016 council elections in Derby, was convicted of two charges of electoral fraud.

The case raised concerns for TUSC candidates and agents. When canvassing for signatures for the candidates' nomination papers Chris had taken with him examples of local TUSC campaigning material to make it easier to explain what TUSC was about. There is no legal prohibition on this. Indeed, for smaller parties without a national media profile, how else could canvassers most effectively introduce themselves to people on the doorstep?

But the Crown Prosecution Service (CPS) were able to convince a jury, on 12 counts out of 14, that Chris had misled voters into believing that they were signing a petition against the closure of a local swimming pool and not a local election nomination form. This raised understandable fears.

The TUSC National Election Agent, Clive Heemskerk, attended the two-and-a-half week trial and has produced a comprehensive rebuttal of the CPS case, *Report on the Derby court case*, which is available on the TUSC website at <http://www.tusc.org.uk/txt/413.pdf>.

There was no question of ballot papers being interfered with, of people's right to vote how they wish being denied, of impersonation of voters, postal ballot irregularities or any other suggestion that actual votes were fraudulently cast or any financial impropriety. It was purely a matter of the process by which candidates are enabled to appear on ballot papers in local elections.

Unfortunately, this argument and the many other points raised in the report were not made in court by Chris's legal defence and the CPS's political prosecution, which is what this was, was effectively allowed to go unchallenged.

But it does **not** mean that other TUSC candidates and agents are open to similar prosecutions.

The CPS undoubtedly wanted a prosecution on the extremely unusual 'false pretences' Section 65A(1)(b)(ii) charge under the Representation of the People Act. They did so to satisfy the demand from the Tory government to clamp down on so-called 'sham nominations'. This is part of the Tories' moves against democratic rights, including electoral rights, as a response to the accumulating rage at their seemingly never-ending austerity agenda (see pages 20-22, *The Wider Picture*, in *Report on the Derby court case*).

But the CPS were only able to bring the case and win because Chris Fernandez had, unfortunately, committed another offence related to the nomination paper in Derby's Mackworth ward, to which he pleaded guilty.

In this instance, under pressure of meeting the official deadlines, he had copied out a completed nomination paper for Mackworth ward to correct the minor errors made by the electors who signed the original form. Whatever the mitigating circumstances may have been, that made it a fraudulent nomination, which Chris admitted to as soon as it was pointed out to him.

But this made it possible for the CPS to argue that, having committed one offence, he was guilty of the 'false pretences' charge. That's the main lesson from the Derby case. And because of that, it also absolutely does not establish 'case law', applicable to possible instances in the future.

TUSC is committed to preserving the integrity of the electoral process – that's why we produce this guide. And that includes the right of canvassers to use political campaigning material when they collect nomination signatures.