

PARISH COUNCIL CASUAL VACANCIES GUIDANCE FOR PARISH CLERKS

Resignation of Councillor

If a member resigns, becomes disqualified, or dies notice must be given in accordance with section 87(2) of the Local Government Act 1972 to announce that there is a vacant seat to be filled on your council and, if your council is warded, the name of the parish ward must be stated in the notice. The notice should be published on your parish notice boards and in any other locations where you have permission to post parish notices. The content of the notice is prescribed and a copy is attached and can be provided in electronic form at your request.

Notice of Vacancy

The notice provides a period of 14 days (excluding Saturdays, Sundays and bank holidays) during which ten electors for the parish, or in the case of a warded parish, ten electors for the parish ward in which the vacancy has occurred, may request the Returning Officer to call an election to fill the vacancy. A copy of the notice must be provided to the Returning Officer so that he knows of the vacancy.

At the end of the 14 day period the Returning Officer will advise the parish clerk either that such a request has not been received or that election has been requested.

There are different rules when a vacancy occurs within 6 months of scheduled elections. Please contact the Democratic & Electoral Services Manager for advice in that situation.

Request for an election

In the event of no request for an election, the parish council must take steps to fill the vacancy by co-option. Care must be taken to ensure that the person co-opted is qualified to be a parish councillor for your parish. The qualifications are that the person co-opted is either:

(a) registered as a local government elector for the administrative area of the parish; and/or

(b) has during the whole of the twelve months preceding the date of co-option occupied as owner or tenant the following land or other premises in the parish; and/or

(c) has his/her principal or only place of work during those twelve months in the parish;

(d) and/or has, during the whole of those twelve months resided in the parish or within 4.8 kilometres (3 miles) of it.

Co-option

The council may co-opt whoever it pleases to fill a casual vacancy. However, that person must be qualified to serve as a councillor.

The person co-opted must receive an absolute majority vote of the councillors present and voting. For example, where there is a council of eleven members and there are nine councillors present and voting, the absolute majority is five. Where there are more than two candidates for the vacancy, it may be necessary to run a series of votes, each time removing the candidate who has the least number of votes until one candidate secures an absolute majority.

The usual rules on voting apply. Provided that the meeting has a quorum, the decision must be made by a majority of members who are present and voting. The person presiding over the meeting may vote, and if there is an equality of votes they may exercise their casting vote. Members must vote by show of hands unless the council has standing orders that provide otherwise.

The council's debate and vote on the co-option must be conducted in the public section of its meeting. It follows that the candidates, as members of the public, will be entitled to be present during the proceedings.

Following Co-option

After the parish council has co-opted to fill the vacancy the name and address of the new member should be provided to the Returning Officer.

In the event of a request for an election – Notice of an Election

In the event of the Returning Officer receiving a request from ten (valid) electors for an election to be held to fill the vacancy he will determine the date of the poll and give Notice of Election. The Returning Officer is required to set a date within 60 days beginning with the day on which public notice of the vacancy was given. The notice will specify where nomination papers can be obtained (usually from the Returning Officer and the parish clerk) and will give the date and time by which nomination papers must be deposited with the Returning Officer.

Election Process

If there is more than one valid nomination after the last date for the withdrawal of candidature, a poll will be necessary to fill the vacancy and the parish council will be asked if it wishes poll cards to be issued to those eligible to vote. This is the only aspect of the election in which the parish council has choice and parishes are strongly encouraged to request that poll cards be issued as, in many instances, this will be the only certain means of ensuring that electors are aware of the poll.

If an election is necessary then the Democratic & Electoral Services Manager will advise the Parish Clerk on the Election Timetable.

The cost of the election is re-charged to the parish council.