

# **PART SIX**

## **ELECTIONS**

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# 1. Guide to filling a Casual Vacancy in the Office of Parish Councillor

## Procedure

In the event of a casual vacancy occurring in the office of Parish Councillor, public notice must be given by the parish council in accordance with Section 87(2) of the Local Government Act 1972.

In a case where the parish council declares the office to be vacant in accordance with Section 86 of the 1972 Act (i.e. through the disqualification or non-attendance of a member) the vacancy must be publicly advertised *immediately*.

In all other cases, public notice of the vacancy must be given as soon as practical after the vacancy has occurred.

### NOTE:

*It is possible that the district or unitary council has local arrangements with parish councils to advertise vacancies. It is therefore sensible to contact them first normally through their elections unit.*

## Notice of Vacancy

Section 232 of the Local Government Act 1972 requires that a public notice required to be given by a local authority shall be given by posting the notice in some conspicuous place or places within the area of the local authority and in such other manner, if any, as appears to the local authority to be desirable for giving publicity to the notice.

A template form of notice for when a casual vacancy occurs is attached to these notes. In order to be as helpful as possible to the public, the template provides for the date by which an election must be requested and the last possible date for a poll to be held to be inserted, rather than referring to the somewhat obscure computation of time periods. These dates should be checked with the elections officer at the local district or unitary council prior to publishing the notice.

**The date on which the notice is posted should be inserted at the bottom of the notice and a copy of the notice should be forwarded to the Elections Officer at the local district or unitary council immediately.**

## Claiming a Poll

Proper notification of the vacancy is essential because, on such vacancy occurring in the office of Parish Councillor, an election to fill the vacancy shall be held if, within fourteen days (this is calculated by excluding Saturdays, Sundays, Christmas Eve, Christmas Day, Good Friday, bank holidays and days appointed for public thanksgiving or mourning – Local Elections (Parishes and Communities) (England and Wales) Rules 2006) after public notice of the vacancy has been given, notice in writing of a request for such an election has been given to the returning officer by ten electors for the area. If the parish council is warded, the request must come from ten electors within the relevant ward.

If no such request is received within the time stipulated, the parish council must fill the vacancy by co-option as soon as practicable (see below).

Once an election has been requested, however, the vacancy must be filled by election and the Council cannot fill it by co-option, even if there are insufficient candidates. An election must be held within sixty days (calculated as above) of the date of the public notice of the vacancy.

Where a casual vacancy occurs within six months before the day on which the Councillor

whose office is vacant would normally have retired, an election to fill the vacancy shall not be held. The parish council nevertheless may fill the vacancy by co-option if it wishes.

### **Voting by Council on Casual Vacancy (“Co-Option”)**

In the case of co-option the following procedure should be followed:-

- (a) Notice of the intention to co-opt to the vacancy should be given in the agenda for the meeting of the Parish Council;
- (b) When the item is reached, the Chair should call for nominations, which should be duly proposed and seconded;
- (c) When all the nominations have been received a vote should be taken. It is usual for the candidate's names to be put in alphabetical order;
- (d) The person co-opted must receive a majority of the votes of those Councillors present and voting at the meeting where the co-option takes place. Where there are more than two candidates for one vacancy, this rule means that a person must get a majority of votes over all the other candidates. Thus where candidate A receives four votes, and candidates B and C each receive two, A is not elected because he has the same number of votes as B and C put together and does not have a majority over their combined votes. Where there are more than two candidates it is desirable to eliminate the candidate with the least number of votes, so that the final vote is between two candidates only;
- (e) After the vote has been taken, the Chair should declare the candidate who received the highest number of votes duly elected;
- (f) The person elected must make a declaration of acceptance of office before, or at, the first meeting of the Parish Council following his election in the presence of a member of the Parish Council or the Proper Officer of the Parish Council. The declaration is then retained in the parish records. The person elected will need also to undertake to abide by the Parish Council's Code of Conduct.

#### **NOTE:**

*There is nothing preventing Councillors from approaching persons to offer themselves for co-option or even advertising for applicants. Applicants might also be invited to provide a written “application” or invited to speak to the council prior to any voting. If such arrangements are to be applied, they should be carefully drafted and provided to applicants. It is imperative that all applicants are treated alike in order that the arrangements are seen as fair. Applicants under such arrangements must not undertake any lobbying.*

**2. Model Notice of Vacancy**

(..... **WARD** of the)

**PARISH** of .....

**NOTICE OF VACANCY  
IN THE OFFICE OF PARISH COUNCILLOR**

**NOTICE IS HEREBY GIVEN** pursuant to Section 87(2) of the Local Government Act 1972 that

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**formerly a Member of the above Parish Council has ceased to be a Member and that a casual vacancy exists in the office of Councillor for the said Parish.**

On receipt of a request in writing from any ten local government electors for the said Parish/Parish Ward, an election to fill the vacancy will be held not later than..... If no such request is made the vacancy will be filled by co-option by the Parish Council.

Requests for such an election should be addressed to **The Returning Officer, (at the office of the local district or unitary council )** to arrive not later than.....

**DATE** .....

**SIGNED** .....

DESIGNATION .....  
(Clerk to the Council, the Proper Officer for this purpose)