

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 (ie 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.

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.

Notification of a vacancy should be sent to the Elections Officer via email to democraticservices@northwarks.gov.uk. The reason for such vacancy and the name of the parish councillor that has resigned/is deceased should be stated. A Notice of Vacancy will then be prepared and return to the parish council clerk. The notice should be displayed on the date given in the notice.

Claiming a Poll

Proper notification of the vacancy is essential because, on such a 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. If a vacancy arising within six months is not filled, the vacancy must be filled at the next election in accordance with the usual parish election rules.

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 in accordance with the usual rules for publicising meetings. In addition to the usual steps required to publish the agenda, it may also be beneficial to give other public notice of the forthcoming meeting at which co-option is an agenda item and give contact details for any interested person to make their interest known;
- b) When the item is reached, the Chair should call for nominations, which should be duly proposed and seconded;
- c) When all the nomination have been received a vote should be taken. It is usual for the candidates' names to be put in alphabetical order;
- d) Where there are 2 or more candidates to fill a vacancy by co-option, a process of elimination may need to take place;
- 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/her 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 should also be advised that they are bound by and must observe 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.