

Town Hall, Market Place, Wallingford, Oxfordshire OX10 0EG

Telephone: 0751 9367709 or 0774 6943076 www.oalc.org.uk email: info@oalc.org.uk

GUIDANCE ON FILLING A CASUAL VACANCY – PARISH/TOWN COUNCILS

A casual vacancy can arise for a number of reasons including death, resignation, ceasing to be qualified or moving away.

A councillor may resign at any time, in writing, delivered to the chairman of the parish council. There is no special form for the notice. There is no procedure for withdrawing a notice of resignation once it is made. There is no need to report the resignation to the council for it to take effect. The resignation takes effect upon receipt, and this is the effective date of the vacancy. This should be reported to the Council formally and minuted.

Notification

The Parish Clerk should notify the Returning Officer at the district council as soon as possible after the vacancy has occurred informing them of the name, reason and date of vacancy.

There is a legal requirement to declare the office of Councillor vacant within a “reasonable time” period after it has occurred.

The period within which a poll may be claimed begins with the date given on the notice and therefore, proper notification is important and steps should be taken to ensure that all notices are posted on the same date. Your district council will supply you with a form which looks something like this:

<p>.....PARISH/TOWN COUNCIL</p> <p>..... WARD (if warded)</p> <p>NOTICE OF CASUAL VACANCY</p> <p>A vacancy exists in the office of Parish/Town Councillor for</p> <p>.....(.....ward)</p> <p>The vacancy will be filled by election if, within fourteen working days of the date</p>
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of this notice, any ten local government electors for the said parish/town submit a written request to the Returning Officer,.....(insert your District Council).

In computing these fourteen days mentioned above you disregard a Saturday or Sunday, Christmas Eve, Christmas Day, Good Friday or a bank holiday or a day appointed for Public Thanksgiving or Mourning.

A poll will not take place until 6 May 2021 in accordance with the Local Government and Police and Crime Commissioner (Coronavirus) (Postponement of Elections and Referendums) (England and Wales) Regulations 2020 and the Coronavirus Act 2020 or until such date or within such period as may be specified in any further regulations made under the Coronavirus Act 2020. The date of the poll will be specified in the notice of election published by the Returning Officer.

If no such request is made the Parish Council will fill the vacancy by co-option.

Dated **Signed**

(Parish/Town Clerk)

Claimed poll or election

Ten electors for the parish may submit a request in writing to the Returning Officer to claim a poll. Please note that if the parish is warded, the ten electors must all be from the ward in which the casual vacancy has occurred. The Notice of Vacancy must be displayed for 14 days. The poll must be claimed within 14 days of the public notification of the vacancy. The period of 14 days does not include Saturdays, Sundays, Christmas Eve, Christmas Day, Good Friday, a Bank Holiday and any day of Public Thanksgiving or Mourning.

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The Returning Officer will determine an election date, following a request to fill the vacancy by a poll or election. The poll must take place within 60 days of the date given on the notice of vacancy.

No election demanded

Once the Vacancy has been advertised and your District Council has confirmed in writing that no requests have been made for a bye-election within the 14 day period of public notification, you can then fill the vacancy by co-option.

Voting on Casual Vacancies

In filling a vacancy by co-option, the Parish Council is not obliged to consider the claims of candidates who were unsuccessful at a previous election.

In the Members Area of the OALC website there is a NALC briefing on good practice for co-options (L15-08). The briefing still contains useful information but has been superseded by Legal Topic Note 8 (June 2020) on Elections and Co-option

Your members may know someone that is interested in being co-opted onto the Council and if this is the case, they should tell the person to write to the council expressing an interest.

It may be good practice to publish a notice giving the date of the meeting at which applications will be considered by the Parish. This can also ask for any person who wishes to be considered for co-option, to confirm their name to the Clerk and that they are qualified to be a member.

When filling the vacancy by co-option, a successful candidate must receive a majority of those present and voting at a meeting of the Parish Council, which must be conducted in the public part of the meeting. If there is more than one candidate for a vacancy, and no candidate receives a majority of the votes cast, the candidate with the least number of votes should be taken off the list of candidates and the vote taken again. This procedure should be repeated until a majority is obtained for a particular candidate.

If there is more than 1 vacancy and the number of candidates equals the number of vacancies, all the vacancies may be filled by a single resolution of the Council.

If you have only 1 candidate apply then the Council would have to have good reason not to co-opt them. If you have more than 1 candidate then the members would have to consider and vote for each applicant.

If there is 1 candidate and he is co-opted, then he has to sign Declaration of Office at the meeting, if he is present, before he can take office. Any application could of course, be considered in the applicant's absence, but members would need to agree for him/her to

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sign Declaration of Office either before or at the next meeting. (If they cannot attend the next meeting, it would need to be before). You should confirm the date that their term of office will terminate

You should write to your Returning Officer advising them of the successful candidate. Your successful candidate should receive a copy of your Standing Orders, Financial Regulations, anything else you might have, such as a copy of the Good Councillors Guide and any useful information such as a list of all the members' names, addresses and telephone numbers.

If a vacancy occurs within six month of the next ordinary Parish elections

A poll cannot be claimed if a vacancy occurs within six month of the next ordinary Parish elections. The Parish may, but is not bound to fill the vacancy by co-option.

Other Comments

Should a poll be claimed and an election held, the cost of that election is borne by the Parish Council.

Details of the estimated cost of the election can be supplied by the district council on request. In the event of an election, the Parish Council must decide whether or not it wishes poll cards to be delivered to the electors of the Parish.

Normal postal/proxy voting arrangements will apply.

Vacancies after an election

If, following an ordinary election there are insufficient persons nominated to fill all the available seats, the parish has 35 days from the date of the election to co-opt persons to fill those vacancies without the necessity of advertising for a potential bye election. If, following the election, there insufficient councillors elected to form a quorum, the parish must advise the District council who can either appoint persons to be parish councillors or order another election.

(see section 39(4) Representation of the People Act 1983 and section 21(2) RPA 1985)

Updated December 2020)