



Harborough District Council

CASUAL VACANCIES IN THE OFFICE OF COUNCILLOR

Notes for the Guidance of Parish Council Clerks

Qualifications to be a Councillor

A person is qualified to be elected and to be a councillor if they are a British, Commonwealth, Irish or European Union citizen and on the relevant day (that is, the day of nomination or election) they are 18 or over. In addition, the person must meet at least one of the following criteria (1) on the relevant day and thereafter they continue to be on the electoral register for the parish, or (2) during the whole of the twelve months before that day they have owned or tenanted land or premises in the parish, or (3) during the whole of the twelve months before that day their principal or only place of work has been in the parish, or (4) during the whole of the twelve months before that day they have resided in the parish or within three miles of it. Except for qualification (1), these qualifications then continue for the full term of office, until the next ordinary elections. Certain people are disqualified from standing, and these include paid officers (including the Clerks) of the council, bankrupts and those subject to recent sentences of imprisonment.

The Six Causes of a Casual Vacancy and the Effective Date of the Vacancy

1. Failure to complete a declaration of acceptance of office within the proper time. This must be done before or at the first meeting of the Council, unless the council permits otherwise. The effective date of the vacancy is the closing date for making declarations of acceptance of office.
2. When a notice of Resignation has been received. A councillor may at any time resign their office by written notice 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.

3. Death. The vacancy is deemed to have occurred on the date of the death.

4. Ceasing to be Qualified. This would normally only occur where a councillor had used their registration as an elector as their qualification for nomination and election and where that qualification had been lost because they had ceased to be on the register of electors. As noted above, all other qualifications continue for the full term of office. The council must declare the vacancy forthwith, and the vacancy is deemed to have occurred on the date of this declaration.

5. Becoming Disqualified. Through bankruptcy, office holding, surcharge, conviction, court order or being found guilty of corrupt or illegal practices in election law.

6. Failure to Attend Meetings. If a councillor fails throughout a period of six consecutive months from the date of their last attendance to attend any meeting of the council (including committees, sub-committees or as a representative of the council), they shall, unless the failure was due to some reason approved by the council before the expiry of that period, cease to be a member of the council. The effective date of the vacancy is the date declared by the council.

Notice of the Casual Vacancy must be given

Copies of the Notice can be supplied by Harborough District Council's electoral services staff, and they should be put up forthwith.

Publication of the Notice of Casual Vacancy starts the process which allows ten electors of the parish to request that an election be held to fill the vacancy. There is no form of words for this request, which might simply be a letter headed with such words as "We the undersigned being electors for the Parish, call for an election to fill the vacancy arising from the [death][resignation] of ...". It is helpful if the ten signatures are accompanied by printed names, addresses and electoral numbers from the current electoral register. The request is sent to the Returning Officer of Harborough District Council and must be received within fourteen days computed in accordance with the election rules. The election must then be held within sixty days of the date of the notice of casual vacancy.

If no request is received, then, after the expiry of the fourteen day period, the council shall co-opt a person to fill the vacancy as soon as is practicable.

In the case of a casual vacancy occurring in the last six months before the ordinary elections, the council is required to give a notice of the casual vacancy but an election is not held. The council may co-opt if it wishes, leaving any unfilled vacancies to be filled at the ordinary elections.

If an election is called for

The Returning Officer will set a date for polling day, and the election process will begin with the publication of a notice of election, copies of which will be supplied to the clerk. That notice informs the electors where they may obtain nomination papers and the date by when they should be delivered. It gives the dates by which applications to vote by post or proxy must be made. It also gives the date of the poll in the event of a contest.

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. Some councils advertise for expressions of interest in being co-opted. Although there is no legal requirement to do this, it is generally regarded as good practice to make the vacancy as widely known as possible.

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.

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 thereafter retained in the parish records

For further advice on Casual Vacancies contact the Electoral Services Department –
Council Offices

Adam & Eve Street, Market Harborough

Leics, LE16 7AG

Telephone: 01858 821371/72 - Fax: 01858 821336

Email: e.services@harborough.gov.uk

VACANCY PROCEDURE FOR PARISH COUNCILS

Parish Clerks are asked to follow this procedure in the event of a vacancy.

