Casual Vacancies good practise guide

This Guidance has been prepared in order to assist parish clerks with the legal process of filling a casual vacancy. It covers the following subjects:

Section 1: Overview of process
Section 2: Reasons a vacancy can arise
Section 3: Publishing a public notice
Section 4: Co-option
Section 5: Election called
Section 6: Qualifications for becoming a councillor
Section 7: Disqualifications for becoming a councillor

The following documents are also attached:
Declaration of acceptance of office
Notice of casual vacancy
Request for an election

If you have any further queries or require assistance with casual vacancies please contact the elections office by emailing elections@southandvale.gov.uk or call 01235 422528.

Please remember that the elections team must be notified of any vacancies as soon as they arise. You can email elections@southandvale.gov.uk or call 01235 422528 to notify a member of the team. We need to know the name, reason and date of vacancy.
Section 1: Overview of process

This diagram gives an overview of the process to follow should a vacancy arise.

Vacancy arises (see section 2)

Parish clerk to notify the elections team as soon as the vacancy arises. This can be done via email or in writing with the name, reason and publication date of the notice.

Parish clerk produces a notice of casual vacancy and publishes it. (see section 3)

After 14 Days since the notice was published

Check with elections team how many requests for an election have been made

Less than 10 requests

Co-option (see section 4)

Parish clerk to inform Elections team the details of the Councillor they have co-opted and the date of co-option. Co-option must be completed within 60 days of publication of vacancy.

10 or more requests

Election Called (see section 5)

Returning Officer commences election process. Election must be held within 60 days of receipt of request for an election.
## Section 2: Reasons a vacancy can arise

<table>
<thead>
<tr>
<th>Why</th>
<th>Explanation</th>
<th>Effective date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Failure to complete a declaration of acceptance to office (template attached) within the proper time</td>
<td>This must be done before or at the first meeting of the parish council, unless the parish council permits otherwise, which cannot be retrospective.</td>
<td>On the closing date for completing the acceptance to office.</td>
</tr>
<tr>
<td>Resignation</td>
<td>A councillor may at any time resign by written notice delivered to the chairman of the parish council. This does not need to be made in a particular format. Note: There is no process for retracting a resignation once it is handed to the chairman.</td>
<td>On receipt of the written notice.</td>
</tr>
<tr>
<td>Death</td>
<td>Death of parish councillor</td>
<td>Vacancy is deemed to have occurred on the date of the death.</td>
</tr>
<tr>
<td>Ceasing to be qualified</td>
<td>This usually occurs if a parish councillor has used their entry on the electoral register as their qualification for nomination and they cease to be on the register of electors. For more information on qualification criteria please see section 6.</td>
<td>Parish council must declare the vacancy. The date of the declaration is the effective date of vacancy.</td>
</tr>
<tr>
<td>Becoming disqualified</td>
<td>This can occur through bankruptcy, office holding, surcharge, conviction, court order or being found guilty of corrupt practise of law. For more information on disqualification criteria please see section 7.</td>
<td>Parish council must declare the vacancy. The date of the declaration is the effective date of vacancy.</td>
</tr>
<tr>
<td>Failure to attend meetings</td>
<td>This occurs if a councillor fails throughout a period of six consecutive months from the date of their last attendance to attend any meeting of the Parish Council, unless the reason for failure was approved by the Parish Council before the expiry of the 6 month period. Note: The meetings for attendance can include committees, sub-committees or as a representative of the Parish Council.</td>
<td>Parish council must declare the vacancy. The date of the declaration is the effective date of vacancy.</td>
</tr>
</tbody>
</table>
Section 3: Publishing a public notice

The Parish Clerk should complete and publish a notice of casual vacancy (template attached). The Parish Clerk must display as soon as practicable after the date on which the vacancy has occurred.

Display the notice or notices for 14 days in a conspicuous place or places within the area of the parish/ward.

You may wish to place a copy of the Notice in your parish magazine and on your parish council website.

Section 4: Co-option

Upon the expiry of the 14 days which the Notice of Vacancy has been displayed, the Parish Council may co-opt to fill a casual vacancy IF the Returning Officer has not received ten requests for an election. You will need to check with the elections team before you begin this process.

You may be contacted by interested persons whilst the notice of vacancy is displayed. These electors may not wish to call an election but maybe interested in standing via co-option. However, that person must be qualified to serve as a councillor (see section 6) and be co-opted by a quorate parish council.

The Parish 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.

Provided that the meeting has a quorum, the decision must be made by an absolute majority of members who are 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. Members must vote by show of hands unless the council has standing orders that provide otherwise.

Co-option must be completed within a period of 60 days beginning with the day of which the Notice of Vacancy was dated.

Section 5: Election called

If, within fourteen days from the publication of the notice, the Returning Officer receives a written request for an election signed by TEN electors within the parish area, an election must be held to fill the vacancy.

There is no prescribed form for this written request, a suggested template is attached at the end of this guidance. Please direct any requests to the elections team for further advice.

It should be noted that these requests can be written separately, an election will still be triggered if by the end of the 14 day period the Returning Officer has received ten signed requests from electors.
The Returning Officer will then set a date for polling day which must be within 60 days of receipt of request for an election. The election process will then begin, with the publication of a notice of election, copies of which will be supplied to the Parish Clerk.

The notice informs 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 election in the event of a contested election.

It is from this point that the Parish Council will start to incur the costs that will arise from staging an election, irrespective of whether it is contested or not, including poll cards (if requested) and postal votes. An estimated cost of election and timetable for the election period can be received from the Elections Team, on request.

Section 6: 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.

Section 7: Disqualifications to be a Councillor

There are certain people who are disqualified from being elected to a parish or community council in England and Wales. You cannot be a candidate if at the time of your nomination and on polling day:

1. You are employed by the parish/community council or hold a paid office under the parish/community council (including joint boards or committees).
2. You are the subject of a bankruptcy restrictions order or interim order.
3. You have been sentenced to a term of imprisonment of three months or more (including a suspended sentence), without the option of a fine, during the five years before polling day.
4. You have been disqualified under the Representation of the People Act 1983 (which covers corrupt or illegal electoral practices and offences relating to donations). The disqualification for an illegal practice begins from the date the person has been reported guilty by an
election court or convicted and lasts for three years. The disqualification for a corrupt practice begins from the date a person has been reported guilty by an election court or convicted and lasts for five years.

1.4 A person may also be disqualified from election if they have been disqualified from standing for election to a local authority following a decision of the First-tier Tribunal (formerly the Adjudication Panel for England) or the Adjudication Panel for Wales.
DECLARATION OF ACCEPTANCE OF OFFICE

I ______________________________ (1) having been elected to the office of ______________________________ (2) of ______________________________ (3) declare that I take that office upon myself, and will duly and faithfully fulfil the duties of it according to the best of my judgment and ability.

Signed: _____________________________
Date: _________________________

This declaration was made and signed before me,

Signed: ______________________________
Designation: ______________________________
Proper officer of the council
Date: _________________________

(1) Insert the name of the person making the declaration
(2) Insert “member” or position “chairman” as appropriate
(3) Insert the name of the authority of which the person making the declaration is a member.
CASUAL VACANCY

Notice is hereby given that due to the resignation/death of:

RUTH HOLMAN

a vacancy exists in the office of Parish/Town Councillor for Parish/Town of

WATCHFIELD PARISH COUNCIL

The vacancy will be filled by election if any ten local government electors for the said electoral area submit a written request for an election to be held to fill the vacancy to the Returning Officer, South Oxfordshire District Council / Vale of White Horse District Council (delete as appropriate), 135 Eastern Avenue, Milton Park, Milton, Abingdon OX14 4SB within fourteen days after public notice of the vacancy has been given. 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.

If no such request is made the vacancy will be filled by Co-option by the Parish/Town council.

WEDNESDAY 20TH

Dated this…………………………day of……………………………………………………………………………….

Signed…………………………………………………………………….

Parish/Town Clerk
REQUEST FOR ELECTION

We, the undersigned ten local government electors for the:

Parish/Town of………………………………………………………………………………………………………………………………………..

Ward…………………………………………………………………………………………………………………………………………………

hereby request that an election be held to fill the casual vacancy in the office of parish/town councillor caused by the resignation/death of ……………………………………………………
as published in the notice of vacancy dated…………………………………………………………………………………………...

<table>
<thead>
<tr>
<th>Signature</th>
<th>Address on Register of Electors</th>
<th>Electoral number</th>
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<tbody>
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DATED………………………………………………………….