



Council Vacancies

Qualifications

To be a councillor, a candidate must be a British, Commonwealth, Irish or European Union citizen, 18 years of age or over, and fulfil one or more of the following four criteria:

- (1) being and remaining to be on the register of electors for the Parish:
or, during the whole of the twelve months preceding the nomination:
- (2) have lived in,
- (3) worked in or
- (4) lived within 3 miles of the parish boundary.

Should a candidate have only ticked point (1) on the nomination form and subsequently come off the register of electors, the qualification would lapse. The other three qualifications remain valid for the four year term, so even if a successful candidate left the parish he/she would not be required to resign, although it might be considered appropriate to do so.

Resignation

A councillor may resign at any time by written notice delivered to the chairman of the Parish Council. The chairman must accept the resignation: there is no procedure for withdrawing a notice of resignation once it is made. The resignation takes effect immediately upon receipt, even if some future date has been specified in the letter of resignation.

Disqualification

Reasons for disqualification include bankruptcy; being employed by or doing paid work for the council; a criminal conviction with a prison sentence of three months or more; illegal Expenditure; or being found guilty of corrupt or illegal practices in election law.

Other causes of a vacancy

Death, failure to sign the Declaration of Acceptance of Office, and failure to attend meetings for a period of six consecutive months without prior approval of the Parish Council.

Procedure for filling casual vacancies

When a vacancy arises on the Parish Council after a councillor's resignation, death disqualification, or failure to remain qualified, the process to fill the vacancy is as follows:

- The clerk must notify the Returning Officer at Winchester City Council of the vacancy. Then either:
- The Parish Council must display a notice informing the residents of the parish of the vacancy. The notice will run for 14 days (not counting weekends or bank holidays) from the date it is displayed on parish notice boards, and gives the residents the opportunity to call for an election to fill the vacancy during this period. The Parish Council will also post the notice on the parish website and, if the publication schedule allows, in the Parish Magazine.
- Or, if the vacancy occurs within six months of the next scheduled elections for the Parish Council, there is no option to hold an election. The Parish Council may fill the vacancy by co-option.

Calling an election

During the period of fourteen days from the date the public notice of the vacancy was displayed, ten electors from the parish can call for an election to be held to fill the vacancy. They must make their request in writing to the Returning Officer. If such a request is received within the 14 days, the Returning Officer will set a date for the election (which must be within 60 days of the date of the vacancy notice). Notices will be displayed announcing the election and explaining how to apply to be a candidate for election. The cost of any election is borne by the Parish Council. If there are not enough nominated candidates at the election to fill the vacancies, a further election must be called. Co-option is not an option.

If an election is not called

The Parish Council is notified by the Returning Officer, and must fill the position by co-option as soon as practicable.

Vacancies after ordinary Parish Council Elections

If nine, or fewer, valid nominations were received for the Parish Council quadrennial elections, all those validly nominated will be declared elected. If enough Councillors were elected to form a quorum (3), the Parish Council should fill any remaining vacant seats by co-option. Should it fail to fill the vacant seats within 35 days (excluding bank holidays and weekends), or if not enough councillors were elected to form a quorum, the Winchester City Council may order a fresh election.

Co-option

Although the process for co-option is not prescribed in law, some district councils have provided best practice guidelines. It is especially important that all applicants be treated alike so that the arrangements are seen as open and fair. The co-option process adopted by Compton & Shawford Parish Council is as follows:

i) The Parish Council will advertise the vacancy (or vacancies) on the Parish noticeboards, on the website and in the Parish Magazine. The notices will include:

- A contact point so that people considering putting their names forward for co-option can obtain more information on the role of a parish councillor;
- The co-option process;
- The closing date for all expressions of interest;
- The date on which the Parish Council intends to make a decision.

It is quite in order for Parish Councillors (or indeed any parishioner) to approach individuals to suggest that they might wish to consider putting their names forward for co-option.

ii) When the applications have been received, the Parish Clerk will consider the application letters/emails, check that the individuals meet the qualification requirements, and confirm that, if successful, they would be willing to accept the Code of Conduct and other obligations of a Parish Councillor.

iii) All candidates may be asked to submit a short letter with a brief CV giving reasons why they should be considered for the vacancy. These letters will be circulated to Parish Councillors before the meeting at which the decision will be made.

iv) Candidates will be informed of the date of the meeting at which the Parish Council will make its decision on the co-option.

Co-option meeting

Notice of the intention to co-opt should be given in the agenda for the meeting of the Parish Council. Candidates may be invited to the meeting to introduce themselves and to provide councillors the opportunity to ask questions of them, or the council can decide to rely on the written submissions alone.

If candidates are not invited to speak at the co-option meeting they are welcome to, but are not required to, attend as members of the public.

The council may only discuss each candidate's suitability for the role, when he/she and members of the public are *not* present.

Co-option Voting Process

If there are exactly as many as, or fewer candidates than vacancies, the Parish Council can vote on a composite motion, duly proposed and seconded, that all candidates be co-opted.

If there are more duly proposed and seconded candidates than seats, it will be necessary for existing Councillors present at the meeting to vote. Arnold Baker's "Local Council Administration" recommends that:

- i) A successful candidate should have received an absolute majority vote of those present and voting. So if there are more than two candidates for one vacancy and none of them at the first count has an overall majority, the candidate with the fewest votes should be eliminated and the remainder put to the vote again. The process should be repeated as necessary until one candidate has an overall majority.
- ii) Each vacancy should be filled by a separate vote or series of votes. In a small council there is a distinct possibility that there could be a tie for last place in the first round of voting, leaving the candidate for elimination to be decided by lots. [For the December 2012 co-option, when there were four candidates for the two vacant seats, the council obtained agreement from WCC Democratic Services to use a software package (the widely-used OpenSTV), which automates the process of running multiple rounds of voting and reduces the likelihood of having to draw lots at any stage.]

After the Vote

- i) The clerk will notify the candidates of the results by email, as soon as is reasonably possible (usually within 24 hours).
- ii) Successfully co-opted candidates become councillors in their own right, with immediate effect, and are no different to any other member. As such, they must sign the Declaration of Acceptance of Office and Registration of Interests Form at their first meeting, or within 28 calendar days of election, whichever is the sooner. Their term of office runs until the next quadrennial elections for the Parish Council.

*Notes

This document is based upon a study of the legislation and of the practices of about a dozen other District and Parish Councils and ACSeS (the Association of Council Secretaries and Solicitors) as documented on the web. It is intended as a summary of the most relevant points of procedure and legislation rather than a definitive exposition. Unless specified otherwise, periods of days given in this document refer to working days, that is, they exclude weekends and public holidays. The legislation covering casual vacancies can be found at:

<http://www.legislation.gov.uk/uksi/2006/3305/article/5/made?view=plain>
and the date calculation is given in Schedule 2 Part 1 para 2 of
<http://www.legislation.gov.uk/uksi/2006/3305/schedule/2/made>

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