



Town Clerk: Caroline Leet

EDENBRIDGE TOWN COUNCIL

CO-OPTION PROCEDURE

Reviewed & Adopted: Governance Committee 15 February 2021

1. Introduction

There are six causes of a casual vacancy

- 1.1. 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.
- 1.2. 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 town or 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.
- 1.3. Death - The vacancy is deemed to have occurred on the date of the death. It is common practice for publishing of vacancy notices to be delayed in respect of the deceased.
- 1.4. Ceasing to be Qualified - This would normally only occur where registration as an elector was the sole qualification of a councillor for nomination and election and where that qualification was subsequently 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 irrespective of whether they cease to exist during the term of office. The council must declare the vacancy forthwith, and the vacancy is deemed to have occurred on the date of this declaration.
- 1.5. Becoming Disqualified - Through bankruptcy, office holding, surcharge, conviction, court order or being found guilty of corrupt or illegal practices in election law.
- 1.6. 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.

2. Giving notice of the casual vacancy

- 2.1 The Clerk of the Parish Council must give notice of the casual vacancy
- 2.2 Copies of the notice are supplied by the Elections Team at Sevenoaks District Council and they should be put up as soon as possible by the clerk. The law requires the notice to be posted “in some conspicuous place or places within the parish area” or in any other manner that will ensure its publicity. The notice allows ten electors of the parish or ward to request that an election be held to fill the vacancy.
- 2.3 If an election is called The Returning Officer of Sevenoaks District Council will set a date for polling day.
- 2.4 The election process will begin with the publication of a notice of election, copies of which will be supplied to the clerk.

3. Co-option

- 3.1. If no request for an election is received after the expiry of the fourteen day casual vacancy notice period, the council must co-opt a person to fill the vacancy as soon as is practicable. The person must be qualified to be a councillor (*see point 5*).
- 3.2. 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 known as widely as possible.
- 3.3. A vacancy for co-option will be acknowledged by the full Council. If there are already candidate(s) known to members, it may not be necessary to advertise.
- 3.4. If the Council considered advertising for candidates a Notice would be displayed in the Council’s notice Board and on its website. Candidates would need to respond to the advertisement to the Town Clerk.
- 3.5. The applicant(s) would be invited to attend a full Council meeting and to give a short presentation, up to three minutes, *on why you would like to be a Town Councillor and what you feel you can offer the community*. Of course, applicants do not have to attend the meeting to be considered, and in which case they may submit a short statement answering the above brief. This statement should be submitted whether or not they attending the meeting.
- 3.6. Representations will be received under the public questions on the agenda (item 4).

4. Procedure for co-option and voting

- 4.1. **The person to be co-opted must receive an absolute majority vote of the councillors present and voting (Local Government Act 1972 Sch 12, para 39). It follows that if there are more than two candidates for one vacancy and no one of them at the first count receives a majority over the aggregate votes given to the rest, steps must be taken to strike off the candidate with the least number of**

votes and the remainder must then be put to the vote again; this process must, if necessary, be repeated until an absolute majority is obtained.

- 4.2. **This will mostly be a satisfactory procedure, but if several candidates have obtained the same number of least votes and the aggregate of the others is less than a normal quorum (e.g. 3:2:2:2:2) it may be thought wise not to strike off all those with the least votes together but, if negotiations for withdrawals fail, to strike them off one by one, in order determined by vote.**
- 4.3. If there is more than one vacancy and the number of candidates equals the number of vacancies, all the vacancies may be filled by a single composite resolution, but if the number of candidates exceeds the number of vacancies, each vacancy must be filled by a separate vote or series of votes.
- 4.4. The Council is not obliged to consider the claims of candidates who were unsuccessful at a previous election.
- 4.5. 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 (of at least more than 50% of the votes of the councillors voting).
- 4.6. **If a majority of the councillors vote against the sole candidates, then the vacancy fails to be filled.**
- 4.7. The usual rules on voting apply. The Council's Standing Orders state: Where more than two persons have been nominated for a position to be filled by the Council and none of those persons has received an absolute majority of votes in their favour, the name of the person having the least number of votes shall be struck off the list and a fresh vote taken. This process shall continue until a majority of votes is given in favour of one person. A tie in votes may be settled by the casting vote exercisable by the chairman of the meeting.
- 4.8. Management of the vote: The Chairman will call for the vote. Members will vote using ballot papers. Applicants will be listed in alphabetical order. Ballot papers will be issued to councillors at each round of voting. Ballot papers will be collected and the total counted for each applicant. Results will be read out alphabetically. A black marker pen will be used to eliminate on the next round of ballot papers.
- 4.9. Candidates, as members of the public, are entitled to be present during the proceedings.
- 4.10. However, the Council may consider, under the (Public Bodies (admission to Meetings) Act 1960, s1(2)), by resolution, to exclude the public from a meeting (whether during the whole or part of the proceedings) whenever publicity would be prejudicial to the public interest by reason of the confidential nature of the business to be transacted or for other special reasons stated in the resolution and arising from the nature of that business or of the proceedings; and where such a resolution is passed, this Act shall not require the meeting to be open to the public during proceedings to which the resolution applies.

- 4.11. Newly co-opted councillors must sign their Declaration of Acceptance of Office in the presence of a member of the Council or the Town Clerk before engaging in council meetings. This may be done at the meeting of co-option.
- 4.12. A co-opted councillor stands down with all other councillors at the next ordinary election.
- 4.13. The Town Council Clerk is requested to notify the Elections Team when a councillor is co-opted to ensure records are up to date.

5. Qualifications to be a Councillor

- 5.1. A person is qualified to be elected and to be a councillor if they are a British, Commonwealth, Irish or Union citizen and on the day of nomination and election (the relevant day) 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 area of the authority (town); or
 - 2) During the whole of the twelve months before the relevant day they have owned or tenanted land or premises in the town; or
 - 3) During the whole of the twelve months before the relevant day their principal or only place of work has been in the town; or
 - 4) During the whole of the twelve months before the relevant day they have lived in the town or within three miles of it.
- 5.2. Except for qualification 1, these qualifications then continue for the full term of office, until the next ordinary elections.
- 5.3. Certain people are disqualified from standing. These include paid officers of the council (including the Clerk), people that are bankrupt and those subject to recent sentences of imprisonment.
- 5.4. This procedure is as set out by the guidance notes issued by Sevenoaks District Council; prescribed in the Arnold-Baker on Local Council Administration; and the Communities, Parish and Local Councils (CPALC) best practice
- 5.5. [Local Government Act 1972 S70.Part V](#) sets out qualifications and disqualifications.