

Councillor Casual Vacancy Policy

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Staplehurst Parish Council

Introduction

A casual vacancy may occur due to a range of reasons; resignation, death of a councillor, ceasing to be qualified and/or disqualification, failing to declare acceptance of office or as a result of vacation of office through failure to attend any meeting of the Council or of its committees for a period of six consecutive months without an approved reason. In these situations, section 87(2) of the Local Government Act 1972 (the 1972 Act) requires a local council to give public notice of casual vacancies, to ensure transparency and attract more candidates.

The public notice given by the council invites application for candidates who satisfy (1) the eligibility for being a councillor and (ii) the competencies listed in the person specification.

In the event that the casual vacancy is created within 6 months of the date the term for the original post holder would have regularly retired, no election can be called, and the vacancy need not be filled until the next ordinary election.

Procedure

Notice of a Casual Vacancy:

Maidstone Borough Council's Democratic & Electoral Services Team are notified of the vacancy and the Parish Council issue a formal Notice of Vacancy. The notice will be displayed for fourteen working days during which ten members of the parish can demand an election takes place. If called the by-election is then organised by Maidstone Borough Council. In the event of no request for an election being made, then a vacancy for co-option will be notified by MBC to the Clerk and the Council will consider whether to follow a co-option process at the next appropriate Full Council meeting.

Vacancies remaining after an election:

If there are not enough candidates to fill the remaining vacancies the Representation of the People Act 1985, section 21 allows the elected members, provided there is a quorum (i.e. one third of the whole numbers of members with a minimum of three) to co-opt members to fill the remaining vacancies.

The Parish has 60 days from the date of the election to co-opt persons to fill those vacancies without the necessity of advertising for a potential by-election. If there are insufficient councillors elected to form a quorum, the parish must advise Maidstone Borough 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).

Vacancies without an election:

If an election is not requested the Parish Clerk will be notified by Maidstone Borough Council that the Parish Council may co-opt a member to fill the vacancy as soon as practicable. If the number of casual vacancies leaves the Parish Council without a quorum, the Borough Council will order an election to be held and in the meantime may by order appoint people to fill all or any of the vacancies until other Councillors are elected and take up office.

Process

Any casual vacancy by co-option will be advertised on notice boards within the Parish and via the Parish website and social media for a minimum of four weeks. This will include a deadline for receipt of applications.

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The Parish Council can advertise/promote/approach individuals as they see fit, but any candidate who qualifies must be considered for co-option, i.e., be put to the vote, in the context of any agreed deadline.

Eligibility:

The Parish Council can consider any person to fill a vacancy provided that:

- For twelve months they have;
 - a) lived in the parish or within 3 miles of the parish;
OR
 - b) their principal or only place of work is in the parish
OR
 - c) occupied (as owner or tenant) any land or other premises in the parish.
- OR
- You are registered on the electoral role of the parish

There are certain disqualifications for election, of which the main are (see 5. 80 of the Local Government Act 1972):

- holding a paid office of the Parish Council.
- bankruptcy.
- having been sentenced to a term of imprisonment (whether suspended or not) of not less than three months, without the option of a fine during the five years preceding the election
- being disqualified under any enactment relating to corrupt or illegal practices.

Applications:

Candidates will be required to:

- Candidates will be signposted to information about the role of a Councillor to help inform their decision to make an application.
- Submit an email or letter to the Parish Clerk explaining why they are interested in joining the Parish Council and what skills and experience they would bring. They may also wish to submit a short CV or pen picture about themselves.
- Meet with the Parish Clerk and/or a Councillor to discuss any questions they have about the procedure for co-option, eligibility to serve or the role and responsibilities of a Parish Councillor.

Co-option Process:

- The Parish Council will consider the candidates for co-option to fill any vacancy at a suitable Parish Council meeting and candidates will be invited to attend.
- Shortly before this meeting the Parish Clerk will report the names of the candidates to the Council at the meeting and distribute copies of any applications made by the candidates.
- Each candidate will be invited to make a short statement to the Council and may also be asked questions by Councillors.

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- The process will be carried out in the public session and there will be no private discussions between members prior to a vote being taken. However, if it is necessary for the Council to discuss the merits of candidates and inevitably their personal attributes, this could be considered prejudicial, and the Council should resolve to exclude the members of the press and public. This is likely to be by exception where there is a large number of candidates for a limited number of roles.
- Declarations of interest must be made by Parish Councillors as each candidate is considered, (e.g.: family ties, friendships, business relationships etc). This does not prevent Councillors from voting, but a Councillor may exempt themselves from the process if there is considered a serious conflict of interest.

Voting:

- This must take place in a public meeting.
- Only Councillors present at the meeting may vote.
- Where a Councillor feels they have a serious conflict of interest, they must declare this interest and request to be exempt from the co-option process. As set out in standing orders, paragraph 13.3, the Councillor will be invited to leave the room at the commencement of the co-option process, and re-join the meeting once all voting has been completed and decisions made.
- If a member is not at the meeting the legislation does not provide for a proxy or postal vote.
- Even if there are fewer candidates than vacancies, each candidate must receive an absolute majority vote of those members present at the meeting, no majority, no co-option. There is no “co-opted uncontested” provision within the law.
- Where there is the same number of candidates as vacancies, each candidate must still receive an absolute majority vote of those members present at the meeting, no majority, no co-option.
- If there are more candidates than vacancies voting will be in accordance with standing order 8.1 where the candidate with the least number of votes should be taken off the list of candidates, and if there are still more candidates than vacancies, the vote is taken again. This procedure should be repeated until the number of candidates equals the number of vacancies and each candidate has a majority vote.
- Voting will be by a show of hands in accordance with standing order 3.19, unless a motion to vote by signed ballot is submitted and agreed. The motion may be made for a signed ballot on the night, conditional to being proposed and seconded in the appropriate manner.
- The Chairman may only use his casting vote if two successive voting rounds are stalemated.
- If at the end of voting, there is vacancy where no candidate has received a majority vote, then the vacancy may remain unfilled. The Council will then reconsider at the next suitable Full Council Meeting what steps they wish to take to continue with the co-option process.

Declaration of Acceptance of Office:

Those co-opted must sign a declaration of acceptance of office before they join any meeting of the Council as a member.

If the successful candidate is present at the meeting where the co-option is agreed they will sign the Declaration of Acceptance of Office and be able to participate in the meeting.

Term of Office:

A person elected or co-opted to fill a casual vacancy holds office until the person in whose place they are elected or appointed would regularly have retired.

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Notification of Co-option:

The Clerk will notify Democratic & Electoral Services Team at Maidstone Borough Council of the new member appointment and the new member must complete a Declaration of Disclosable Pecuniary Interest within 28 days of being co-opted. Which must be sent to Democratic & Electoral Services Team at Maidstone Borough Council for formal confirmation.

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