



Casual Vacancy Good Practice Guide

Elections Team
Stafford Borough Council
05 October 2010

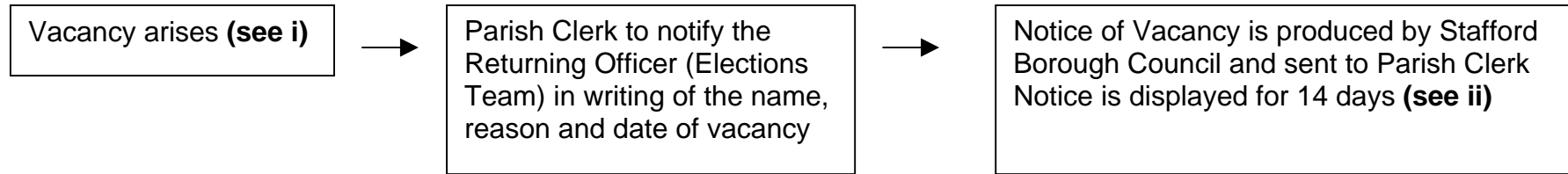
Foreword

- This Guide has been prepared in order to assist Parish Clerks with the process and legalities of the Casual Vacancy process. However, if you require further help or advice please do not hesitate to contact the Elections Team, see details below.
- Parish Clerks are encouraged to work with the Elections Team when they have a casual vacancy and also in the conduct of Parish elections.
- Help and Advice is available at the Election Briefing for Parish Clerks and Councillors which is held in the lead up to the ordinary Elections.

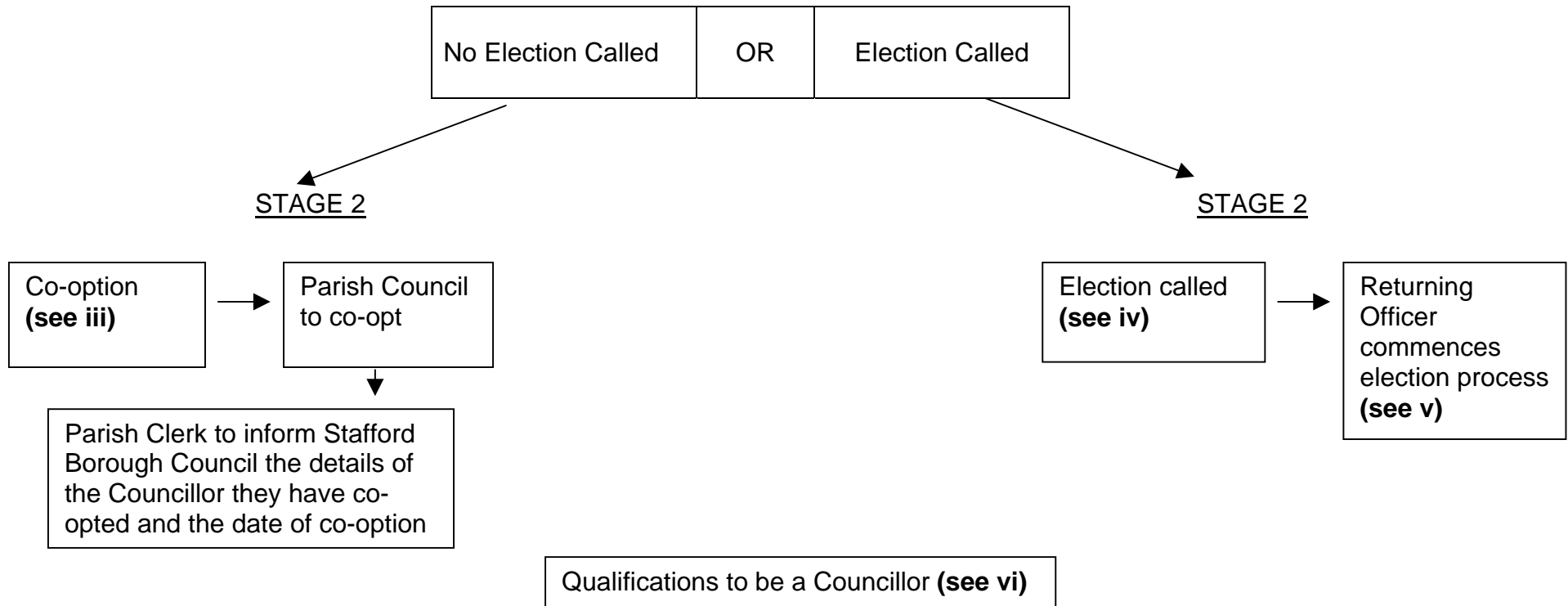
Elections Team
Tel 01785 619424
elections@staffordbc.gov.uk

CASUAL VACANCIES IN THE OFFICE OF COUNCILLOR

STAGE 1



14 Days up



(i) Vacancy Arises 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 Parish Council, unless the Parish 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 Parish 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 Parish Council (including committees, sub-committees or as a representative of the Parish Council), they shall, unless the failure was due to some reason approved by the Parish Council before the expiry of that period, cease to be a member of the Parish Council. The effective date of the vacancy is the date declared by the Parish Council.

(ii) Public Notice

The Returning Officer will provide the public notice of the casual vacancy which the Parish Clerk must display as soon as practicable after the date on which the vacancy has been deemed to have 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 Website. A specimen notice is attached.

(iii) Co-option

Upon the expiry of the 14 days in which the Notice of Vacancy has been displayed, the Parish Council may co-opt to fill a casual vacancy. 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.

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. Members must vote by show of hands unless the council has standing orders that provide otherwise.

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.

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

(iv) Election called

If, within fourteen days (from date of notice) after public notice of the vacancy has been given, the Returning Officer receives a written request for an election signed by TEN electors for the Parish/Ward, an election must be held to fill the vacancy. There is no prescribed form for this written request, direct any requests to the Returning Officer for further advice.

(v) Election Process begins

The written request will trigger the election process. 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 Parish 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 election in the event of a contested election. It is from this point that the Parish Council will start to incur the full costs that will arise from staging an election.

(vi) 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.

Useful references points for Parish Clerks are:

National Association for Local Councils – www.nalc.gov.uk

Staffordshire Parish Council Association - www.spcoonline.org.uk

STAFFORD BOROUGH COUNCIL

NOTICE OF VACANCY IN

OFFICE OF PARISH COUNCILLOR

Parish of Our Town

NOTICE IS HEREBY GIVEN THAT

A Vacancy has arisen in the Office of Councillor for the Parish Council.

If you are a Local Government Elector for the above area you may request that an election is held to fill the vacancy. To request an election, you must write to (Ian Thompson at Stafford Borough Council, Civic Centre, Riverside, Stafford St16 3AQ Tel: 01785 619424) by no later than xxxxxxxxxxxxxxxxxxxxxxxxxxxxxx. If ten local government electors make this request an election will be held.

If a request for an election is not received by the above deadline then the Parish Council will co-opt a person to fill the vacancy as soon as practicable in accordance with the Local Elections (Parishes & Communities) Rules 1986.

Clerk to the Parish Council

Dated: xxxxxxxx