

COUNCILLOR VACANCIES

Approved at Parish Council meeting on 11 March 2021

Minute number 2675/2021 d)

Review May each year

This document is intended as a summary of the most relevant points of procedure and legislation.

Parish Council quadrennial elections

If ten, 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 (4), the Parish Council should fill any remaining vacant seats by co-option.

There is no statutory requirement to give public notice of local council vacancies which remain unfilled after an ordinary election (s.21(2) Representation of the People Act 1985). The Parish Council might at its discretion give public notice of vacancies which arise in these circumstances to encourage transparency and to attract more applicants. The co-option procedure will be as described in this document.

Casual vacancy

A casual vacancy may occur because of: -

- A councillor's resignation. A councillor may resign at any time by written notice delivered to the Clerk to the Parish Council. The resignation must be accepted: 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.
- Death of a councillor
- Disqualification of a Councillor or failure of a Councillor to remain qualified. Examples are:
 - Failure to sign the Declaration of Acceptance of Office, or
 - Failure to attend meetings for a period of six consecutive months without prior approval of the Parish Council.

The process to fill the vacancy is as follows:

The Clerk must notify the Returning Officer at South Derbyshire District Council of the vacancy.

Then either:

- The Parish Council must display a Casual Vacancy Notice / Notice of Poll (see appendix 2) 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.
- 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, but is not bound to do so.

During the period of fourteen days indicated on the notice 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. 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.

Co-option

Co-option is the process by which the Parish Council selects a new Councillor and it is done as an agenda item within a Parish Council meeting. Although the process for co-option is not prescribed in law it is important that all applicants be treated alike so that the arrangements are seen as open. The Parish Council manages the process of co-option by itself and strives to demonstrate that it is fair and equitable by following the procedure set out below.

The Co-option process adopted by Findern Parish Council

(1) The Parish Council will advertise the vacancy (or vacancies) on the Parish Council noticeboards, on the website and on social media. 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 permissible for Parish Councillors (or any parishioner) to approach individuals to suggest that they might wish to consider putting their names forward for co-option.

(2) The applicant will complete an 'Application for Co-option' form.

(3) When an application is received, the Clerk to the Parish Council will consider the application, check that the individual meets 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.

(4) As part of their application, applicants will be invited to submit a short submission providing reasons why they should be considered for the vacancy. These submissions will be circulated to Parish Councillors before the meeting in (5) below.

(5) Applicants will be invited to meet with as many Councillors as possible prior to the Parish Council meeting at which the Parish Council will make its decision on the co-option. The purpose of this meeting will be to determine the applicant's suitability by reference to the Person Specification (Appendix 1) and to respond to any question which the applicant might have.

(6) Applicants 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 included in the agenda for the meeting of the Parish Council either beneath a dedicated heading or within 'Councillor Vacancies' or similar. (Note, depending upon the number of candidates, the Council may call an Extraordinary meeting to consider the candidates for co-option.)

At the Parish Council meeting, candidates will be invited to say something about themselves. Each candidate will be allocated a maximum of three minutes.

There are no special reasons which justify excluding the public during a council meeting, (s.1(2) Public Bodies (Admission to Meetings) Act 1960) when it is making decisions about a matter of public interest such as co-option.

Co-option Voting Process

The Chairman will request the Councillors present to nominate any of the candidates. Candidates will require a proposer and seconder to progress to the voting stage. If there is only one vacancy, a Councillor may only nominate or second one candidate. If there is more than one vacancy each Councillor may only nominate or second one candidate for each vacancy.

The Chairman will then place the names of those nominated into alphabetical order and proceed to vote. Councillors will have one vote per vacancy to be filled.

Voting will be in accordance with Standing Orders by a show of hands and will continue until one candidate has received an absolute majority of *votes of those Councillors present and voting at the meeting where the co-option takes place** At this stage, the successful candidate will be declared co-opted.

Should no single candidate receive a majority on the first vote, the candidate with the lowest number of votes is eliminated. Voting will then take place for the remaining candidates until one person receives an absolute majority.

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, vacancies must be filled by a vote or series of votes. Councillors will have one vote per vacancy to be filled.

The council is not obliged to consider the claims of candidates who were unsuccessful at a previous election.

**When there are two or more applicants for one vacancy, this rule means that a person must get a majority of votes over all the other applicants. Thus, where applicant A receives four votes, and applicants B and C receive three votes and one vote respectively, A is not elected because he has the same number of votes as B and C put together and does not have a majority over their combined votes. Where there are more than two applicants it is desirable to eliminate the applicant with the least number of votes, so that the final vote is between two applicants only.*

After the Vote

i) The Clerk will notify the applicants of the results as soon as practicable (unnecessary if they attend the meeting).

ii) Successfully co-opted applicants become Councillors in their own right, with immediate effect having signed their Declaration of Acceptance of Office, and are no different from any other member. Their term of office runs until the next quadrennial elections for the Parish Council.

Eligibility of a Parish Councillor

Qualifications

To be able to stand as a Parish Councillor, an applicant must:

- be at least 18 years old on the day of nomination
- be a British citizen, an eligible Commonwealth citizen or a citizen of any other member state of the European Union
- meet at least one of the following four qualifications:
 - i) They are, and will continue to be, registered as a local government elector for the parish from the day of their application onwards.
 - ii) They have occupied as owner or tenant any land or other premises in the parish during the whole of the 12 months before the day of their application.
 - iii) Their main or only place of work during the 12 months prior to the day of their application has been in the parish.
 - iv) They have lived in the parish or within three miles (4.8km) of the parish boundary during the whole of the 12 months before the day of their application.

Disqualifications

Apart from meeting the qualifications for standing for election, they must also not be disqualified from standing. There are certain people who are disqualified from being elected to a parish council. They cannot be elected if at the time of their application:

- i) They are employed by the parish council.
- ii) They are the subject of a bankruptcy restrictions order or interim order.
- iii) They 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 the day of their application.
- iv) They have been disqualified under the Representation of the People Act 1983 (which covers corrupt or illegal electoral practices and offences relating to donations) or under the Audit Commission Act 1998.

The full range of disqualifications is complex and if the applicant is in any doubt about whether they are disqualified, they must do everything they can to check that they are not disqualified before submitting an application as they will be asked to sign an 'Application for Co-option' (see appendix 3) to confirm that they are not disqualified. It is a criminal offence to make a false statement on the application as to their qualification for being elected, so if they are in any doubt, they should contact their employer, consult the legislation or, if necessary, take independent legal advice. The Returning Officer will not be able to confirm whether or not they are disqualified.

Appendix 1

Findern Parish Council Parish Councillor Person Specification

COMPETENCY

**Relevant knowledge,
Education, Professional
Qualifications & Training**

**Experience, Skills, Knowledge
and Ability**

ESSENTIAL

- Sound knowledge and understanding of local affairs and the local community.
- Solid interest in local matters.
- Ability and willingness to represent the Council and their community
- Good interpersonal skills.
- Ability to communicate clearly both orally and in writing
- Ability and willingness to work closely with other members and to maintain good working relationships with all members and staff
- Good reading and analytic skills
- Ability and willingness to work with the Parish Council's partners (e.g. voluntary groups, other parish councils, principal authority, charities)
- Ability and willingness to undertake relevant training
- Ability to work under pressure

DESIRABLE

- Specific Vocational training or professional qualification (e.g. accountant, teacher, surveyor, architect.
- Knowledge of HR, procurement, contract management, financial control or risk management and compliance, public relations
- Experience of working in another public body or not for profit organisation
- Experience of working with voluntary and or local community/ interest groups.
- Basic knowledge of legal issues relating to town and parish councils or local authorities.
- Experience of delivering presentations
- Experience of working with the media
- Experience in financial control/budgeting
- Experience of staff management

Other requirements

- Ability and willingness to attend meetings of the council (or the meetings of other local authorities and local bodies) in the evening and events in the evening and at weekends
- Flexible
- Enthusiastic