
Trysull & Seisdon Parish Council Co-Option Policy

September 2021

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Introduction

The Local Elections (Parishes and Communities) (England and Wales) Rules 2006 (“the 2006 Rules”) applies to the election of councillors to a parish council. Elections are run by the principal authority and there is no role for a Parish Council in relation to ordinary elections.

Vacancies in general

Vacancies may arise for various reasons:

Ordinary vacancies arise when there are insufficient nominations at an ordinary election to fill all the available positions.

Casual vacancies arise on resignation, death, failing to accept office or other reasons for disqualification of a standing councillor.

Different rules apply to filling the two types of vacancy. Ordinary vacancies never convert to Casual vacancies.

Ordinary Vacancies

Section 21 of the Representation of the People Act 1985 provides that where an insufficient number of candidates is validly nominated at an ordinary local council election to fill the vacancies on the council, those who have been validly nominated are automatically elected as councillors. Provided that those elected constitute at least a quorum (three or one third of the total number of councillors, whichever is the greater), the council (e.g., those elected unopposed) may co-opt any person or persons to fill the vacancies. If the power of co-option is not exercised within 35 days (in calculating which, Saturday, Sunday, Christmas Eve, Christmas Day, Good Friday, a Bank Holiday and a day appointed for public thanksgiving or mourning are excluded), the principal authority may then exercise its powers to hold a further election or to take other appropriate action to fill the vacancies. A principal authority has wide reserve powers to do anything necessary to constitute a council properly (Representation of the People Act 1983 section 39(4)(b)) (the “1983 Act”), including the temporary appointment of councillors pending a further election (section 91 of the Local Government Act 1972) (“the 1972 Act”).

Filling Ordinary Vacancies via Co-Option

Before exercising the power of co-option, the Parish Council does not have to give public notice of the vacancy or vacancies, although it may do so if it wishes. In practice, the giving of public notice is a sensible way to attract possible candidates for co-option.

Casual Vacancies

Under section 87(2)(b) of the 1972 Act, in most instances of a casual vacancy arising, the Parish Council must give public notice of it as soon as practicable after the casual vacancy is deemed to have occurred and in accordance with the requirements of section 232 of the 1972 Act. Section 232 confirms public notice of a casual vacancy is effected by the council giving notice in conspicuous place(s) in its area and in any such other manner, if any, as appears to the parish council to be desirable for giving publicity.

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If an election is required to fill a casual vacancy it is run by the principal authority. If no election is required the Parish Council controls the process of co-option.

Filing Casual Vacancies via an Election

In accordance with rule 5 of 2006 Rules, if within 14 days (calculated by excluding those days specified above) after public notice has been given, at least 10 electors give written notice to the proper officer of the principal authority of a request for an election to fill the vacancy, then a by-election must be held *except* where the vacancy occurs within six months before the date when the councillor in question would have regularly retired (e.g. four days after the next ordinary election). If a by-election is called, and an insufficient number of candidates is nominated those nominated are elected (section 39(5)(b)) of the 1983 Act) and the district council must call a further by-election to fill the remaining vacancy or vacancies (see section 39(1)(b) of the 1983 Act).

Filling Casual Vacancies via Co-Option

If no by-election is called, the council must as soon as practicable after the expiry of the 14-day period fill the vacancy by co-option. If the vacancy falls within the six-month period the council may but need not, fill the vacancy. It must still, in the latter case, give public notice of the vacancy. Where the number of candidates is less than or equal to the number of vacancies, the candidates shall be appointed to the council if they meet the s.79 eligibility criteria and they are not disqualified under s.80 of the 1972 Act. Nonetheless, the advice of NALC is such that Council's both have the responsibility to ensure a candidate is suitable and retain some discretion in the matter (L15-08).

Decision Making by Parish Councils

Admission to parish council meeting is regulated by Public Bodies (Admission to Meetings) Act 1960 and decisions made by a local council about whether or not to co-opt when vacancies remain unfilled after an ordinary election and who to co-opt when any casual vacancy arises should be transparent. In NALC's view it would be difficult for a local council to argue that there are special reasons which justify excluding the public during a council meeting when it is making decisions about a matter of public interest such as co-option. Decisions about co-option which are made at council meetings when the public have been excluded will not eliminate the need for a council to explain, for example to unsuccessful candidates, the reasons for its decisions.

Parish Council Policy on Co-Option

The Parish Council recognises that it functions at its strongest with a full complement of Councillors and has adopted the following policies and procedures to ensure the fair delivery of an open and transparent process when deciding on Co-option business:

A) Co-Option of Ordinary Vacancies

1. Ordinary vacancies will be advertised at the sole discretion of standing Councillors.
2. Any prospective candidates may be asked to provide a personal statement.
3. Any prospective candidates may be given the opportunity to meet elected members.
4. Approval of any candidates will be at the sole discretion of the standing Councillors.
5. Any approved candidate will be put forward for Co-option at the next available meeting*.

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B) Co-Option of Casual Vacancies

1 Advertising

1.1 The Parish Council will continue to advertise, positions vacant, on its web-site and will make reference to the Parish Council's web-site page on 'The Role of Parish Councillors' and this policy document for the benefit of all prospective candidates.

2 Acknowledgement of Interest

2.1 The Clerk will advise all prospective candidates expressing an interest in becoming a Parish Councillor that they will be required to deliver a personal statement to the Clerk, if they have not already done so at the time of expressing their interest. Candidates should also be referred to this policy document.

2.2 The Clerk will circulate, as soon as possible, any such expressions of interest and/or personal statements so received to all members.

3 Application Cut Off

3.1 The Clerk will note the receipts of all personal statements and then record these as 'valid declarations' on the agenda for the next scheduled meeting** of the Council. Such declarations become 'valid declarations for the current round of Co-option business'.

3.2 Any personal statement that is received after the agenda is published for the next scheduled meeting will not be considered a 'valid nomination for the current round of Co-option business' but will be put forward to a future round of Co-option business as may be required.

4 Meeting with Candidates

4.1 Each candidate, having a 'valid declaration for the current round of Co-option business' will be provided with the opportunity to meet elected members *** for an informal exchange of information. This may allow for members to reach a clearer assessment of the personal qualities and attributes of the candidates and on their suitability to office. It will also allow the candidates to remain assured of their own commitment to office.

4.2 See Appendix 1 for a general guidance for Parish Councillors on the qualities of suitable candidates. However, discretion on the overall suitability of candidate(s) for a particular vacancy will remain with the existing standing Councillors as they will be best placed to understand any requirement for a particular or desirable skill set that may be pertinent to the vacancy arising.

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4.3 Candidates will also be encouraged to be present at the meeting at which the Co-option business is to be decided so each candidate may deliver a brief presentation, if so desired. Members may also ask questions of each candidate.

5 Voting and Acceptance

5.1 Candidates may be asked to leave the room to allow members to vote on the Co-option business. However, they should be reminded that as members of the public, they may remain in the meeting should they so wish.

5.2 See Appendix 2 for Voting Rules.

5.3 The results of the vote will then be confirmed by the Clerk and then declared by the Chairman and the successful candidates notified of the results at that meeting or in writing, as soon as possible, if not present.

5.4 Successful candidates should sign their acceptance to office at the end of the meeting. If not present then candidates must sign their acceptance before or at the next available meeting of the Parish Council (section 83(4)(c) of the 1972 Act).

* This may either be the next scheduled meeting** or an extraordinary meeting convened for this specific purpose.

** The next scheduled meeting is that advertised in the scheduled meeting list provided on the Council's web-site and refers the next full meeting usually held on the second Wednesday in the month.

*** If the timing of any received valid declaration does not permit for such a meeting as described in para 6, before the next scheduled meeting, and this still remains desirable by members or the candidate, then Co-option business may be deferred for one week and an extraordinary meeting then convened for this purpose.

Co-option will be deemed to be a continuance of the 'current round of Co-option business'. The conclusion of the extraordinary meeting will conclude 'the current round of Co-option business'.

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Appendix 1 – General guidance for Parish Councillors when considering Co-option candidates

COMPETENCY	ESSENTIAL	DESIRABLE
Relevant knowledge, Education, Professional Qualifications & Training	<ul style="list-style-type: none"> • <i>Must have access to internet and e-mail facilities.</i> This is essential for the efficient delivery of information between the Clerk, members and third parties. 	<ul style="list-style-type: none"> • Specific vocational training, professional qualification or specific work or life experiences.
	<ul style="list-style-type: none"> • An understanding and interest in local affairs and the local community. <p><i>Other Requirements below as may be deemed appropriate:</i></p>	<ul style="list-style-type: none"> • Knowledge of HR, procurement, contract management, financial control or risk management and compliance, public relations.
Experience, Skills, Knowledge and Ability	<ul style="list-style-type: none"> • Ability and willingness to represent the Council and their community. 	<ul style="list-style-type: none"> • Experience of working in another public body or not for profit organisation.
	<ul style="list-style-type: none"> • Good interpersonal skills. 	<ul style="list-style-type: none"> • Experience of working with voluntary and or local community/ interest groups.
	<ul style="list-style-type: none"> • Ability to communicate clearly both orally and in writing. 	<ul style="list-style-type: none"> • Basic knowledge of legal issues relating to town and parish councils or local authorities.
	<ul style="list-style-type: none"> • Ability and willingness to work closely with other members and to maintain good working relationships with all members and staff. 	<ul style="list-style-type: none"> • Experience of delivering presentations.
	<ul style="list-style-type: none"> • Good reading and analytical skills 	<ul style="list-style-type: none"> • Experience of working with the media and social media
	<ul style="list-style-type: none"> • Ability and willingness to work with the Parish Council's partners (e.g., voluntary groups, other parish councils, principal authority, charities). 	<ul style="list-style-type: none"> • Experience in financial control/budgeting.
Other Requirements	<ul style="list-style-type: none"> • Ability and willingness to undertake relevant training. 	
	<ul style="list-style-type: none"> • 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. 	
	<ul style="list-style-type: none"> • To be flexible and enthusiastic. 	

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Appendix 2 – Voting Rules

- 1) Co-option of a candidate must be by a majority vote of all those present *and* voting.
- 2) In each round of voting each member present may only have one vote per candidate*.
- 3) Candidates will be voted on in alphabetical order.
- 4) The Chairman may use his casting vote in the event of a deadlock in accordance with Standing Order 8a.*

Examples

a) Candidates A, B and C are standing for one vacancy. Each candidate receives 3, 2 and 1 votes respectively in the first round.

Candidate A is not elected because the votes given to B and C i.e., $2+1 = 3$ does not grant A the majority vote, given A also received only 3 votes.

C, receiving the least number of votes is then eliminated.

A second round of voting is then necessary.

Both candidates A and B then receive 3 votes each.

The Chairman then has the deciding vote.

b) If in the above example the votes cast in the first round for A, B and C were 3, 2 and 2 respectively then A would be put forward to the second round.

Candidates B and C would be asked if either or both wished to withdraw their nomination.

If agreed by one then the remaining candidate would also enter the second round with A.

If agreed by both, to withdraw, then candidate A would be duly elected.

If B and C both wish to continue then a separate round of voting (in accordance with the same rules above) will take place in order to determine which remaining candidate would join A in the second round of voting.

c) Candidates A, B and C are standing for two vacancies. Each candidate receives 3, 2 and 1 votes respectively in the first round.

C, receiving the least number of votes is then eliminated.

A second round of voting is not necessary if a majority of Councillors agree that the remaining two candidates A and B should be co-opted to the two vacant positions.