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## CO-OPTION POLICY

### Casual Vacancy occurring between elections

This policy and the appendices are based on the guidance and model documents produced by Somerset Association of Local Councils.

#### 1. When does a casual vacancy arise?

- 1.1 A councillor's usual term of office is four years. A casual vacancy for a parish or town councillor occurs whenever a member leaves the office of councillor during their elected term. There are several reasons why a vacancy might occur, as illustrated in the table below.

| Reason for vacancy                                                                      | Explanation                                                                                                                                                                                                                                                                                                                                                                                                      | Effective Date                       |
|-----------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------|
| <b>Failure to complete a declaration of acceptance to office within the proper time</b> | This must be done before or at the first meeting of the parish council unless the parish council permits otherwise (cannot be retrospective).                                                                                                                                                                                                                                                                    | On the date of the relevant meeting. |
| <b>Resignation</b>                                                                      | <p>A councillor may at any time resign by written notice delivered to the chairman of the parish council. The chairman resigns by letter delivered to the council.</p> <p>Once received, the resignation cannot be withdrawn and there is no need to report the resignation to the council for it to take effect.</p> <p>A letter of intent to resign on a given date is not considered to be a resignation.</p> | On receipt of the written notice.    |
| <b>Death</b>                                                                            | Death of the councillor                                                                                                                                                                                                                                                                                                                                                                                          | On the date of the death.            |

|                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                              |
|--------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Disqualification</b>        | <p>Includes:</p> <ul style="list-style-type: none"> <li>• Becoming bankrupt <u>and</u> having a Restriction Order issued by the court.</li> <li>• Conviction of a criminal offence with a sentence of imprisonment (including one that is suspended) for a period exceeding three months without the option of a fine.</li> <li>• Subject to the notification requirements of Part 2 of the Sexual Offences Act 2003.</li> <li>• Disqualified from being a councillor of a principal authority as a result of electoral offences.</li> <li>• Conviction for failure to register or declare a disclosable interest under the Localism Act 2011.</li> </ul> | For the purposes of filling the vacancy, it is deemed to have occurred on the date of the declaration of vacancy made by the parish council. |
| <b>Ceasing to be qualified</b> | Usually occurs if a parish councillor has used their entry on the electoral register as their only qualification for nomination and they later cease to be on the register of electors.                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | For the purposes of filling the vacancy, it is deemed to have occurred on the date of the declaration of vacancy made by the parish council. |
| <b>Paid office</b>             | Holds paid office or employment in the council – other than the office of chairman or vice chairman                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | For the purposes of filling the vacancy, it is deemed to have occurred on the date of the declaration of vacancy made by the parish council. |
| <b>Absence</b>                 | <p>Failure to attend any meeting of the council, committee, sub-committee for which they are a member, or joint committee, or other body to which any of the council's powers have been delegated, for which they are member, for a period of six consecutive months from the date of their last attendance, and the council fails to approve the reason for absence <u>before</u> the expiry of the six months.</p> <p>The person automatically ceases to be a councillor at the expiry of the six-month period.</p>                                                                                                                                     | For the purposes of filling the vacancy, it is deemed to have occurred on the date of the declaration of vacancy made by the parish council. |

## **2. Declaring a vacancy**

- 2.1 A vacancy is declared by resolution of the parish council, and the clerk is delegated as part of standing orders to immediately notify the vacancy to the Returning Officer of Somerset Council.
- 2.2 An electoral services officer will agree with the clerk the date of a public Notice of the Declaration of Vacancy. The clerk can ask the officer to provide a notice for the clerk to publish on the council website and on noticeboards in the parish or relevant ward of the parish (there is no prescribed format for the notice).
- 2.3 If there are less than six months remaining before the councillor would ordinarily have retired (elections every four years) a by-election cannot be held and the council may fill the vacancy by co-option, but it is not obliged to do so.
- 2.4 Publication of the notice of the casual vacancy starts the fourteen-day period that allows ten electors of the parish to request that an election is held to fill the vacancy. At the end of the fourteen-day period the electoral services officer will notify the clerk, within three working days, either that an election has been properly called by ten electors of the election area or that the vacancy must be filled by co-option. See Appendix C for a flow chart of the process.

## **3 If an election is required**

- 3.1 If there is to be an election, the electoral services team will set a date for polling day, which must be within 60 days of the date of the Notice of Vacancy.
- 3.2 The parish council will start to incur the costs that will arise from staging an election, irrespective of whether it is contested or not, including the cost of poll cards (if requested) and postal votes.
- 3.3 The election process will begin with the publication of a Notice of Election, copies of which will be supplied to the clerk by the electoral services team. The Notice of Election informs the electors where they can obtain nomination papers and the date by when they should be delivered to the Returning Officer. It gives the dates by which applications to vote by post or proxy must be made and the date of the election in the event of a contest.
- 3.4 The parish council should quickly confirm with the electoral services team whether or not poll cards are required. If cards are required, they must be dispatched as soon as possible by the electoral services team once the Notice of Election is published.

## **4. If no election is required**

- 4.1 Once the electoral services team has notified the council that there has been no call for an election, then the council must 'as soon as practicable' co-opt a new member to fill the vacancy. The council may co-opt whomever it wants as long as that person is qualified to serve as a councillor (see para 4.3). The co-option takes place in a quorate public meeting of the full council.
- 4.2 Although there is no legal requirement to advertise for expressions of interest, the clerk will make the vacancy as widely known as possible by posting a notice (Appendix A) on the council website and on noticeboards in the parish or relevant ward of the parish. The clerk might also seek interested people through social media, community newsletters, websites, and by working with community groups to advertise the vacancy.

- 4.3 Candidates will apply via an application form, which should be freely available within the parish. Council may agree on a role description and person specification to target specific characteristics, skills, or groups. Also, highlight the skills needed to be a good councillor: good communication, problem-solving, analytical thinking and team player. The NALC booklet, 'The Good Councillor's Guide', contains useful information and is available for free download from the SALC website: <https://www.somerset-alc.org.uk/publications/> (login required).
- 4.4 Appendix B includes statutory criteria 1-4 that seek to ensure the candidate is qualified to serve as a councillor, any one of the four qualifications shown on the application form will satisfy the requirement. The information on the forms should be checked by the clerk. If the clerk is in any doubt about a candidate's eligibility, they should speak with the electoral services team.
- 4.5 Completed application forms should be received three clear days in advance of the Council meeting when the co-option is scheduled to take place.
- 4.6 It is advised that all known candidates are sent the meetings papers three clear days before the co-option meeting. This means that, if in attendance, the newly co-opted councillor will be ready to join in with the meeting.

## **5. The co-option meeting and voting**

- 5.1 Co-option should follow a transparent process carried out in public at a quorate meeting of the full council, not in confidential session.
- 5.2 Voting should follow standing orders, which is usually by a show of hands. However, council may use a paper ballot. In this case, the clerk should be prepared for this eventuality and will issue a voting slip to each councillor at the meeting. Each councillor present and voting has one vote per vacancy. To ensure nobody votes more than once, the voting slip should be signed by the councillor.
- 5.3 The council or standing orders should require destruction of the ballot papers once the minutes of the meeting are approved, or they risk being available for production as a public document under the Freedom of Information Act, which undermines the use of the paper ballot.
- 5.4 The meeting must resolve by an absolute majority of those present and voting, who to elect to the council. Each candidate must be proposed by an existing councillor, and, if required by standing orders (which is almost always the case), seconded. This process must be followed even if there is only one candidate for a vacancy.
- 5.5 If the number of candidates is equal to or less than the number of vacancies, then, subject to the process above, all the vacancies can be filled with a composite vote.
- 5.6 Where there are more candidates than vacancies, each vacancy is taken in turn, and each councillor present and voting has one vote per vacancy.
- 5.5 Immediately after the vote, the clerk, observed by the chairman (or other), should collect and check the voting slips and confirm to the chairman the name of the successful candidate, for the chairman to declare.
- 5.6 After conclusion of the co-option, arrangements should be made, and a resolution passed, for the new councillor to sign a declaration of acceptance of office, including an undertaking to abide by the Code of Conduct. If the new councillor is present, the declaration can be signed immediately, and they are

then entitled to take part in the remainder of the meeting. If the co-opted councillor is not present the council should resolve that the declaration must be signed on or before the next meeting of the council.

- 5.7 The newly co-opted councillor has the same status as any other councillor and remains a councillor until the next ordinary election (subject to the other intervening events). A co-opted councillor is not able to claim an allowance other than for travel and subsistence.
- 5.8 The council must notify the principal council's electoral services office of the co-option of the new councillor and make arrangements with the new councillor to complete the parish council's register of members' interests within 28 days.

## **6. Multiple candidates per vacancy**

- 6.1 Where there are multiple candidates per vacancy and, after the first vote, none of the candidates for co-option have received an absolute majority of votes in their favour, the person having the least number of votes shall be struck off the list and a fresh vote taken. This process continues until an absolute majority of votes is given in favour of one person (50%+1 *of all votes cast*).
- 6.2 In the event of a tied vote, the chairman has the casting vote. The casting vote may be chosen by the chairman personally or by the toss of a coin; the chairman has no choice but to resolve the tie.
- 6.3 The purpose of the vote is to ensure that the will of the council has been carried out. To avoid abstentions preventing the will from being clear, an absolute majority of votes means an affirmative vote of a majority of the councillors in attendance at the meeting.
- 6.4 For the purposes of full transparency, the results of the entire voting process must be recorded in the minutes.

### **• Example of voting procedure**

The council has one vacancy and there are three candidates, Mr A, Ms B, & Dr C. Eight councillors are present and voting, which means an absolute majority requires 5 votes for one candidate. In the first round of voting, the votes cast are:

| Mr A    | Ms B    | Dr C   |
|---------|---------|--------|
| 4 votes | 3 votes | 1 vote |

No candidate has secured an absolute majority of 5 votes. Dr C is eliminated as they received the fewest votes. A second round of voting takes place, and the votes cast are:

| Mr A    | Ms B    |
|---------|---------|
| 5 votes | 3 votes |

Mr A has received an absolute majority of votes is declared co-opted.

End – see appendices A – C below:

COUNCILLOR VACANCY – NOTICE OF CO-OPTION

PORLOCK PARISH COUNCIL

VACANCY FOR A COUNCILLOR

TO BE FILLED BY CO-OPTION

Porlock Parish Council will consider filling by co-option a Casual Vacancy for a councillor at its meeting to be held:

on .....

at .....

Anyone interested in serving the community as a Parish Councillor and wishing to be considered for co-option should obtain an application form for candidacy from the Clerk or (*Parish website*).

Completed application forms should be returned to the Clerk by: .....(deadline)

Signed  
Parish Clerk .....

Date: .....

## Appendix B

### PORLOCK PARISH COUNCIL APPLICATION TO FILL VACANCY OF PARISH COUNCILLOR

If successful, you will be required to complete an entry in the parish council's register of members' interests. This involves putting on public record your address, employment, relevant financial and other interests.

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Full name of candidate                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Mr/Mrs/Ms/.....<br>First name:<br>Other names:<br>Surname :                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| Address of candidate                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Will you be at least 18 years old on the date of the Meeting                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Yes / No                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| In order for your eligibility to be confirmed please tick all of the following that apply to you<br><br>For full detail on eligibility please refer to your district council's electoral officer.                                                                                                                                                                                                                                                                                                                                      | <ol style="list-style-type: none"> <li>1. On the current electoral register for the parish/ward (on-going requirement; you are required to remain on the register throughout your term of office)</li> <li>2. Have lived in the parish or within 3 miles of the parish boundary during the whole of the 12 months before the day of nomination &amp; election</li> <li>3. Main place of work during the last 12 months before the day of nomination &amp; election is based in the parish</li> <li>4. Occupy as owner or tenant property within the parish for 12 months before the day of nomination &amp; election</li> </ol> |
| Please indicate in no more than 100 words why you would like to join the Parish Council                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <p>You are disqualified if you are employed by the parish council, are subject to a bankruptcy Restriction Order, have been convicted of a criminal offence with imprisonment for 3 months or more, including suspended, within the last 5 years. Subject to the notification requirements of Part 2 of the Sexual Offences Act 2003, disqualified from being a councillor of a principal authority as a result of electoral offences, convicted for failure to register or declare a disclosable interest under the Localism Act.</p> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <p>I am not aware of any disqualification to my serving as a councillor.</p> <p>Signed: .....</p>                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |

## Appendix C

