

Casual Vacancies

A Good Practice Guide for Town and Parish Clerks

Elections Team

Broadland & South Norfolk District Councils

Horizon Centre, Peachman Way, Broadland Business Park, Norwich, NR7 0WF

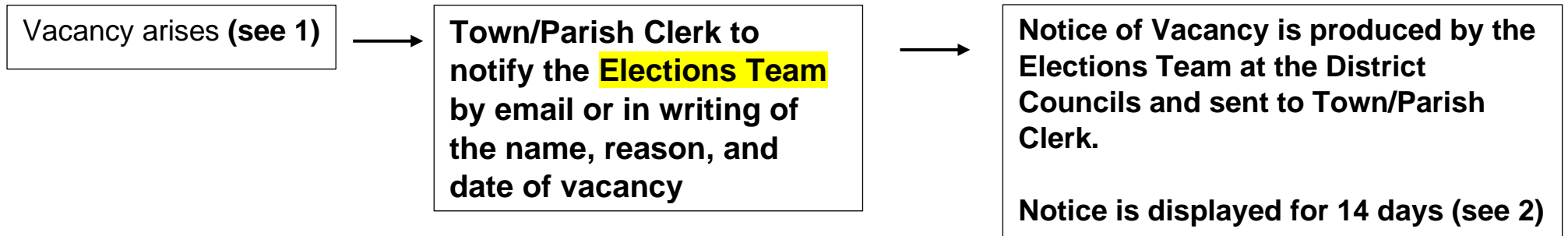
elections@southnorfolkandbroadland.gov.uk 01603 430483

Two Councils
One Team

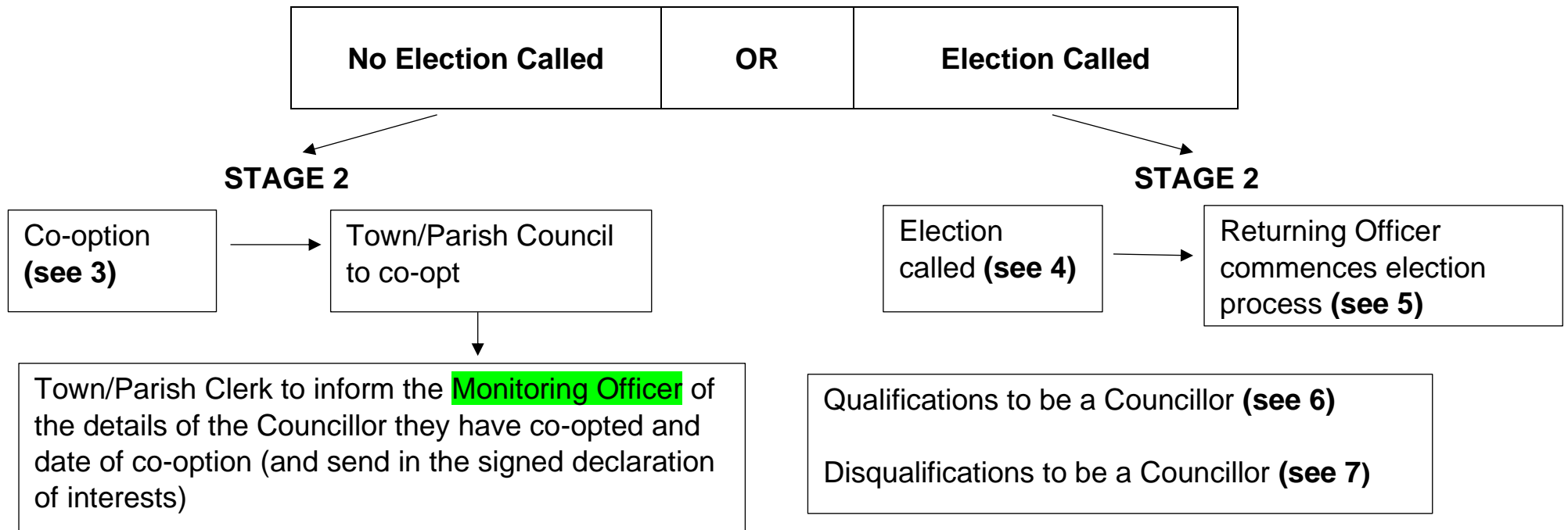


CASUAL VACANCIES IN THE OFFICE OF COUNCILLOR

STAGE 1



14 Days expired
Elections Team contact the clerk to advise:



1. Vacancy arises and the effective date of the vacancy

- a) 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 Town/Parish Council unless the Town/Parish Council permits otherwise. The effective date of the vacancy is the closing date for making declarations of acceptance of office.
- b) When a notice of resignation has been received. A Councillor may at any time resign their office by written notice delivered to the chairperson of the Town/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.
- c) Death. The vacancy is deemed to have occurred on the date of the death (*normally the notice is displayed after the funeral as mark of respect).
- d) Ceasing to be Qualified. This would normally only occur where a councillor had used their registration as an elector as their only qualification for nomination and election and where that qualification had been lost because they ceased to be on the register of electors. All other qualifications continue for the full term of office. The Town/Parish Council must declare the vacancy forthwith, and the vacancy is deemed to have occurred on the date of this declaration.
- e) Becoming Disqualified. Through bankruptcy, office holding, surcharge, conviction, court order or being found guilty of corrupt or illegal practices in election law.
- f) 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 Town/Parish Council (including committees, sub-committees or as a representative of the Town/Parish Council), they shall, unless the failure was due to some reason approved by the Town/Parish Council before the expiry of that period, cease to be a member of the Town/Parish Council. The effective date of the vacancy is the date declared by the Town/Parish Council.

2. Public Notice

The Elections Team (on behalf of the Returning Officer) will prepare and provide the public notice of the casual vacancy which the Town/Parish Clerk must display as practicable after the date on which the vacancy has been deemed to have occurred. Display the notice

or notices for 14 days (when calculating the 14-day period it should be working days, which excludes weekends and Bank/Public Holidays).

The notice should be displayed in a conspicuous place or places within the area of town/parish ward. You may wish to place a copy of the notice in your town/parish magazine and on your website. A copy of the notice will also be published on the relevant District Council's website.

See appendix a for a specimen notice (specific to either Broadland District Council or South Norfolk Council).

3. Co-option

Upon expiry of the 14 days in which the Notice of Casual Vacancy has been displayed, the Elections Team will contact the Clerk and advise the Town/Parish Clerk that the Council may co-opt to fill the 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 of the councillors present and voting. For example, where there is a council of eleven member 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 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 Town/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 Casual Vacancy was dated.

The signed Members' and Co-Opted Members' Disclosable Pecuniary and Other Interests should be sent to the Monitoring Officer at the District Council monitoringofficer@southnorfolkandbroadland.gov.uk

4. Election called

If, within 14 days (from date of the notice) after public notice of the vacancy has been given, the Returning Officer receives a written request for an election signed by **10** electors for the Parish or for the Ward of the Town/Parish if divided into wards, an election must be held to fill the vacancy. The elections team will contact the Clerk.

There is no prescribed form for this written request, but a sample form of wording can be obtained from the Elections Team.

5. 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 Town/Parish Clerk.

That notice informs the electors where they may obtain nomination papers and the date by when they should be delivered. It gives 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 Town/Parish Council start to incur the full costs that will arise staging an election.

Current guidance for candidates and nomination papers can be obtained from the Electoral Commission website:

www.electoralcommission.org.uk/i-am-a/candidate-or-agent/parish-and-community-council-elections-england

6. Qualifications to be a Councillor

A person is qualified to be elected and to be a councillor if they are a British or Irish citizen, an eligible Commonwealth citizen or a citizen of any member state of the European Union 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 four qualifications:

- (1) On the relevant day and thereafter they continue to be registered as a local government elector for the town/parish/community from the day of their nomination onwards, or from standing, and these include paid officers (including the Clerks) of the Council, bankrupts, and those subject to recent sentences of imprisonment
- (2) They have occupied as owner or tenant any land or other premises in the town/parish/community area during the whole of the 12 months before the day of their nomination and the day of election, or

- (3) Their main or only place of work during the 12 months prior to the day of their nomination and the day of election has been in the town/parish/community area, or
- (4) They have lived in the town/parish/community area or within three miles of it during the whole of the 12 months before the day of their nomination and the day of election.

Except for qualification (1), these qualifications then continue for the full term of office, until the next ordinary elections.

7. Disqualifications

There are certain people who are disqualified from being elected to a town/parish or community council in England and Wales.

A person cannot be a candidate if at the time of their nomination and on polling day:

They are employed by the parish/community council or hold a paid office under the town/parish/community council (including joint boards or committees)

They are the subject of a bankruptcy restrictions order or interim order.

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 polling day

They have been disqualified under the Representation of the People Act 1983 (which covers corrupt or illegal electoral practices and offences relating to donations). The disqualification for an illegal practice begins from the date the person has been reported guilty by an election court or convicted and lasts for three years. The disqualification for a corrupt practice begins from the date a person has been reported guilty by an election court or convicted and lasts for five years.

A person may also be disqualified from election if they have been disqualified from standing for election to a local authority following a decision of the First-tier Tribunal (formerly the Adjudication Panel for England) or the Adjudication Panel for Wales

Useful reference points for Town/Parish Clerks:

National Association for Local Councils www.nalc.gov.uk and Norfolk Association for Local Councils www.norfolkalc.gov.uk

Appendix - Broadland

Casual Vacancy in the Office of **Parish/Town** Councillor

PARISH/TOWN OF

- (1) Notice is hereby given that due to the **resignation/death** of **Cllr NAME**, a vacancy has arisen in the office of Councillor exists for the **Parish/Town** Council.
- (2) An election by ballot according to the Election Rules will be held if a request in writing to that effect, signed by ten local government electors for the electoral area, is delivered to **The Returning Officer, Broadland District Council, Horizon Centre, Peachman Way, Broadland Business Park, Norwich, NR7 0WF** not later than DD MM YYYY
- (3) If an election is not requested, the **Parish/Town** Council will fill this vacancy by co-option

Parish/Town Clerk:

Address:

Dated:

Appendix – South Norfolk

Casual Vacancy in the Office of **Parish/Town** Councillor

PARISH/TOWN OF

- (1) Notice is hereby given that due to the **resignation/death** of **Cllr NAME**, a vacancy has arisen in the office of Councillor for the **Parish/Town** Council.

- (2) An election by ballot according to the Election Rules will be held if a request in writing to that effect, signed by ten local government electors for the electoral area, is delivered to **The Returning Officer, South Norfolk Council, Horizon Centre, Peachman Way, Broadland Business Park, Norwich, NR7 0WF** not later than DD MM YY.

- (3) If an election is not requested, the **Parish/Town** Council will fill this vacancy by co-option.

Parish/Town Clerk:

Address:

Dated: