



Casual Vacancy Process

Guidance notes for parish & town clerks

Wyre Elections Team

E: electoral.services@wyre.gov.uk

T: 01253 887257

W: www.wyre.gov.uk/elections

August 2025

This guidance has been prepared to assist Parish/Town Clerks with the legal process of filling a casual vacancy.

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Please note this information is for guidance only and clerks should seek their own independent advice to satisfy themselves that they are acting properly. The first port of call for clerks should be www.lalc.org.uk/contact.php

Please remember that the elections team must be notified of any vacancies as soon as they arise. You can email details to electoral.services@wyre.gov.uk **Please do not email individual officers.**

Please include the name, reason, date of vacancy and parish/town ward (*if applicable*) and we will provide you with a Vacancy Notice to publish.

These details will be shared with Democratic Services to update the Register of Interests for the parish or town council.

Section 1: Introduction

These notes have been written to supplement existing knowledge to provide a useful insight into the background and processes concerning casual vacancies, elections caused by casual vacancy and the process of co-option.

It is important to note however that, these notes whilst may be beneficial as a starting point, should not be constructed as definitive guidance. If any person or body, such as a parish council, parish clerk or prospective candidate requires legal advice on any matter it is incumbent upon them to seek their own legal advice. Similarly, irrespective of these notes, the decision of the appointed Returning Officer will be final in all matters.

Finally, if you have any general queries regarding these notes or other electoral matters, please contact the Elections Team on 01253 887257 or by email to electoral.services@wyre.gov.uk

For full guidance or independent advice you should contact The Electoral Commission: <https://www.electoralcommission.org.uk/contact-us> or telephone 0333 103 1928.

Guidance: [Guidance for Candidates at Parish council elections in England | Electoral Commission](#)

Section 2: Term of office

Town / Parish councillors hold office for a period of four years (or if elected or co-opted part way through the cycle, for the remainder of that period only). Councillors formally retire on the fourth day after the ordinary day of the election.

All new councillors take office (provided they have made declaration of acceptance of office) on the day which their predecessors retire (Local Government Act 1972, Section 16(3)).

Section 3: Reasons a vacancy can arise

Vacancy reason	Description
Failure to complete a declaration of acceptance to office within the proper time	Failing to complete a declaration of acceptance of office within the proper time will cause a vacancy. Acceptance of office must be done before or at the first meeting of the parish council, unless the parish council permits otherwise, which cannot be retrospective. The effective date of the vacancy is the closing date for making declarations of acceptance of office.
Resignation	A parish councillor may resign their office at any time 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 district council for it to take effect. The resignation takes effect upon receipt, and this is the effective date of vacancy.
Death	The vacancy is deemed to have occurred on the date of the death.
Ceasing to be qualified	This would normally only occur where a parish 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. The parish council must declare the vacancy forthwith, and the vacancy is deemed to have occurred on the date of this declaration. It should be noted however that this would not be the case if other qualifications were validly held. Furthermore proving disqualification in this instance may be difficult as we do not retain nomination papers, (even if we did they could no longer be legally viewed).
Becoming disqualified	Through bankruptcy, office holding, surcharge, conviction, court order or being found guilty of corrupt or illegal practices in election law.
Failure to attend meetings	if a parish 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.

Section 4: When does the vacancy begin from and when is the notice published?

Vacancy Reason	Effective date (when the vacancy occurs)	Publication of Notice of Vacancy
Failure to accept Office	The closing date for a declaration to be made	As soon as practicable after the vacancy occurs
Resignation	When the resignation is received	As soon as practicable after the vacancy occurs
Death	On the day of death	As soon as practicable after the vacancy occurs. We would suggest that the notice is not published until after the funeral has taken place as a mark of respect
Ceasing to be qualified	The council must declare the vacancy as soon as	As soon as the vacancy is declared.

	possible and the vacancy is deemed to have occurred on the date of this declaration.	
Becoming disqualified	The council must declare the vacancy as soon as possible	As soon as the vacancy is declared.
Failure to attend meetings	The vacancy occurs on the date declared by the council by resolution.	As soon as the vacancy is declared.

Section 5: Actions to take when a casual vacancy occurs

Vacancy notice: a vacancy notice must be advertised as soon as notification has been received by the parish council, (LGA 1972, sec 87(2)). Clerks should contact the Elections Team at electoral.services@wyre.gov.uk to request a vacancy notice, stating the name of the resigning councillor, the parish ward (if applicable), and the date they resigned.

It should be noted that in the case of a vacancy occurring through death of an existing councillor that it is customary to wait until after the funeral before advertising such a vacancy.

Key Dates – vacancy timetable

Post Notice of Vacancy	Day 0 (day following receipt of notice of vacancy)
Notice of Vacancy expires	+14 Dies Non* (date of notice = 1 st day)
Latest date of Election	+60 Dies Non* (date of notice = 1 st day)

* “Dies Non” refers to:-

- A Saturday or a Sunday
- Christmas Eve, Christmas Day, Good Friday or a Bank Holiday; or
- A day appointed for thanksgiving or mourning.

An election must be called: if ten electors of the parish or parish ward send a request to the Returning Officer of Wyre Council, within 14 days. An election must then take place within 60 days; all dates will be computed in accordance with the (*LEPCR 2006, sch 2, sec 1-6*). The calculation of the 14/60 day periods are both “DIES NON” and commence from the day of the posted notice.

Whilst there is no form of words for the electors’ request it will be helpful if the signatures of the electors are accompanied by printed names, addresses and elector numbers from the current electoral register. Example at the back of the guidance pack.

No call for election/ need for co-option: if no request for an election is received within 14 days then the parish council must seek to fill the vacancy by co-option as soon as practicable after the expiry of the notice. (*LEPCR 2006, sec5 (5)*). In regard to co-option the process to be followed is a matter for the Parish Council itself provided that it works within legislative boundaries. It is also the parish council that may co-opt whoever it

pleases to fill a casual vacancy, (provided that, that person is qualified to serve as a councillor).

Section 6: Exceptions

In the case of a casual vacancy occurring in the last six months before the ordinary election, the parish council is required to give a notice of the casual vacancy but an election is not held. The council may co-opt or leave any vacancy unfilled until the next ordinary election. (LEPCR 2006, Sec 5 (6). Following an ordinary election, if the parish council has a quorum, (LGA 1972), then it must co-opt as soon as is practicable, to the remaining vacancies, (RPA 1985, Sec 21). If the vacancy to be filled remains vacant outside of the 35 day period then the Local Authority may intervene (RPA 1985, Sec 21 cites RPA 1983, Sec 40). However, even after 35 days, the parish council may co-opt without the need to advertise such vacancies if the Returning Officer indicates that he does not wish to invoke his powers to call an election. This is because the Notice of Election (now expired) has acted as the vacancy notice and there is no provision for a further notice to be advertised.

Section 7: When an election is called by ten electors

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 will state where and when nomination papers may be collected and the date by when they should be delivered back to the Returning Officer. It also provides the date of the poll in the event of a contest. Below are calculations for statutory dates associated with the calling of an election. These statutory calculations are in accordance with the LEPCR Rules 2006. In the case of an election being called, a statutory timetable with “Live” dates will be provided by the Returning Officer

Key election timetable dates:

Election Day (E) (last possible date)	+ 60 Dies Non* (day following notice is day 1)
Notice of Election	E – 25 (last possible date)
Close of Nominations	E – 19 (4pm)
Publish Statement of Persons Nominated	E – 18 (4pm) (last possible date)
Notice of Poll	E – 6 (last possible date)
Polling Day	E (7am – 10pm on day of election)

* “Dies Non” refers to:-

- A Saturday or a Sunday
- Christmas Eve, Christmas Day, Good Friday or a Bank Holiday; or
- A day appointed for thanksgiving or mourning.

Section 8: Qualifications to be a parish councillor

A person is qualified to be elected and to be a councillor if they are a British, an eligible Commonwealth citizen*, a citizen of the Republic of Ireland, a qualifying EU citizen** or an EU citizen with retained rights***; and on the relevant day (that is, the day of

nomination or election) they are 18 or over.

*An eligible Commonwealth citizen is a Commonwealth citizen who either:

- *does not need leave to enter or remain in the United Kingdom, or*
- *has indefinite leave to remain in the United Kingdom*

** A qualifying EU citizen is a citizen of a country:

- that has a bilateral Voting and Candidacy Rights (VCR) treaty with the UK
- is a resident in the UK
- With any form of leave to remain, or does not require such leave.

*** An EU citizen has retained rights if:

- they are a citizen of a country which does not have a bilateral Voting and Candidacy Rights (VCR) treaty with the UK
- and they have been legally resident in the UK since before the UK left the EU on 31 December 2020 (the Implementation Period Completion Date – IPCS)

You can find more information regarding eligibility on the Electoral Commission website: www.electoralcommission.org.uk/guidance-candidates-parish-council-elections-england

Additionally, 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), which must continue for the length of office, the above qualifications must apply for the period covering nomination and election, (LGA 1972, Sec 79(2)).

Certain people are disqualified from standing, these include paid officers (including the clerks) of the council, bankrupts and those subject to recent sentences of imprisonment (within the last 5 years prior to the date of election (LGA 1972, Sec 80).

Section 9: Disqualifications of becoming a parish councillor

There are certain people who are disqualified from being elected to a parish or community council in England and Wales. You cannot be a candidate if at the time of your nomination and on polling day:

- (1) You are employed by the parish/community council or hold a paid office under the parish/community council (including joint boards or committees).

- (2) You are the subject of a bankruptcy restrictions order or interim order.
- (3) You 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 and the ordinary period allowed for making an appeal or applications in respect of the conviction has passed. A person who is in the process of making an appeal or application in relation to the conviction is not disqualified at any time before the end of the day on which the appeal or application is disposed of, abandoned or fails by reason of non-prosecution.
- (4) You 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.
- (5) You are subject to the notification requirement of or under Part 2 of the Sexual Offences Act 2003, and the ordinary period allowed for making an appeal or application in respect of the order or notification has passed. A disqualification set under s.81A of the Local Government Act 1972 will only apply to a person who is subject to any relevant notification requirements or relevant order made on or after 28 June 2022. A person who is in the process of making an appeal or application in relation to the disqualification is not disqualified at any time before the end of the day on which the appeal or application is disposed of, abandoned or fails by reason of non-prosecution.
- (6) You have been convicted of an intimidatory criminal offence motivated by hostility towards a candidate, future candidate or campaigner or holder of a relevant elective office. The effect of a disqualification order is that the person will be disqualified from standing for, being elected to, and holding any relevant elective office for five years.

A person may also be disqualified from being or becoming a member of certain authorities following a conviction under the Localism Act 2011.

Section 10: The nomination process

Candidates should be particularly mindful of the statutory timetable. This timetable must be adhered to fully and without exception. Importantly, nomination papers should be submitted in good time and not later than 4pm on the statutory closing date.

The Local Elections (Parish and Communities) Rules 2006 clearly state the requirements of a nomination, and that the Returning Officer must rule as invalid any nominations that fail to meet these requirements. However, if nomination papers are

completed carefully and ahead of the closing date then there is less chance of unintended error and rejection by the Returning Officer.

Nomination packs will include:

- A nomination paper
- Home address form
- A consent to nomination form; and
- Guidance as appropriate

A copy of the relevant register of electors can be supplied to each successful candidate. This copy will be supplied on the understanding that it will only be used for electoral purposes, and that its contents will not be supplied or disclosed to any third party or used for any other purpose – it is illegal to use this register for any other purpose and any person doing so will be personally liable to a fine if this rule is contravened. (RPR 2002, Sec 115).

Finally, any person may inspect, take copies or extracts of, nomination papers at the Returning Officers office during normal office hours, after the close of nominations up until the day before polling day. (LEPCR 2006, Sec 11).

For full guidance on completing the forms please go to:

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

Section 11: Statement of Persons Nominated

The Returning Officer must publish a statement of persons nominated in accordance with the statutory timetable. This will appear on the Wyre Council's website and in hard copy at the office of the Returning Officer. A copy of the relevant notice will be provided to the parish clerk for display within the parish.

After the publication of Statement of Persons nominated the Returning Officer will know if the number of candidates for an electoral area is less than, equal to or more than the number of seats to be filled, and therefore whether a poll will be needed.

In the case of the number of candidates being "less than or equal to" the number of available seats there will be an uncontested election and those candidates are declared to be elected. Parish Councils in this instance will either need to co-opt members to make up their full quota of councillors or run as full. A notice will be issued to the parish clerk to inform them of the outcome of uncontested elections. This will provide the full names and addresses of the new parish councillor/s.

Where there are more candidates than vacant seats an election will be held.

Section 12: Return of candidate expenses

All candidates must complete and submit, to the Returning Officer (*via the Elections office*), a return of candidates' expenses. This still applies in the case of submitting nil returns, and whether or not the election was contested. The necessary forms will be supplied.

Section 13: Declarations of Acceptance / Interest

A declaration of "Acceptance" of office should be signed by each parish councillor and attested by the parish clerk as the proper officer of the parish council, before or at the first meeting of the parish council after their election or co-option. This declaration must be kept by the parish clerk.

In addition, all elected parish councillors must register their "interests" with Wyre Council's Monitoring Officer. Members are required to update their declaration of interests forms as necessary, including following their election or upon any change in circumstances such as a change of address or employment. It is important to note that failure to register or disclose a disclosable pecuniary interest within **28 days**, as required under the Localism Act 2011, constitutes a criminal offence.

We ask that a copy of the completed form is sent to Democratic Services (Democratic.Services@wyre.gov.uk) and this will also be reviewed by the Monitoring Officer. Declarations of interest must be recorded publicly; therefore, the forms must also be published on your own parish websites and a link to these will be included on the Wyre Council website.

Section 14: Meeting the cost of an election

Once an election has been called for, irrespective of whether or not it is contested, the Returning Officer will require the full costs incurred to be paid by the parish council.

Section 15: Relevant legislation

Representation of the People Act 1983 (as amended) Representation of the People Act 1985 Local Government Act 1972 The Local Government Elections (Parishes and Communities) (England and Wales) Rules 2006.

Section 16: Further assistance

Lancashire Association for Local Councils (LALC): www.lalc.org.uk/contact.php

National Association of Local Councils (NALC): www.nalc.gov.uk

Electoral Commission: www.electoralcommission.org.uk/our-guidance/candidates-and-agents

Wyre Elections Team

E : electoral.services@wyre.gov.uk

Wyre Democratic Services Team

E: democratic.services@wyre.gov.uk

Monitoring Officer, Wyre Council

Joanne Billington

T: 01253 887372

E: joanne.billington@wyre.gov.uk

Section 17: Clerk's checklist

Have you done the following to fill your parish vacancy:

☐

Obtained the resignation in writing?

☐

Advised Wyre Elections Team of the vacancy and requested a copy of the formal notice?

Email: electoral.services@wyre.gov.uk

☐

Advertised the vacancy within the parish for 14 working days?

☐

Passed any requests for an election on to Wyre Elections Team?

Email: electoral.services@wyre.gov.uk

☐

Advised Wyre Elections Team of any co-options?

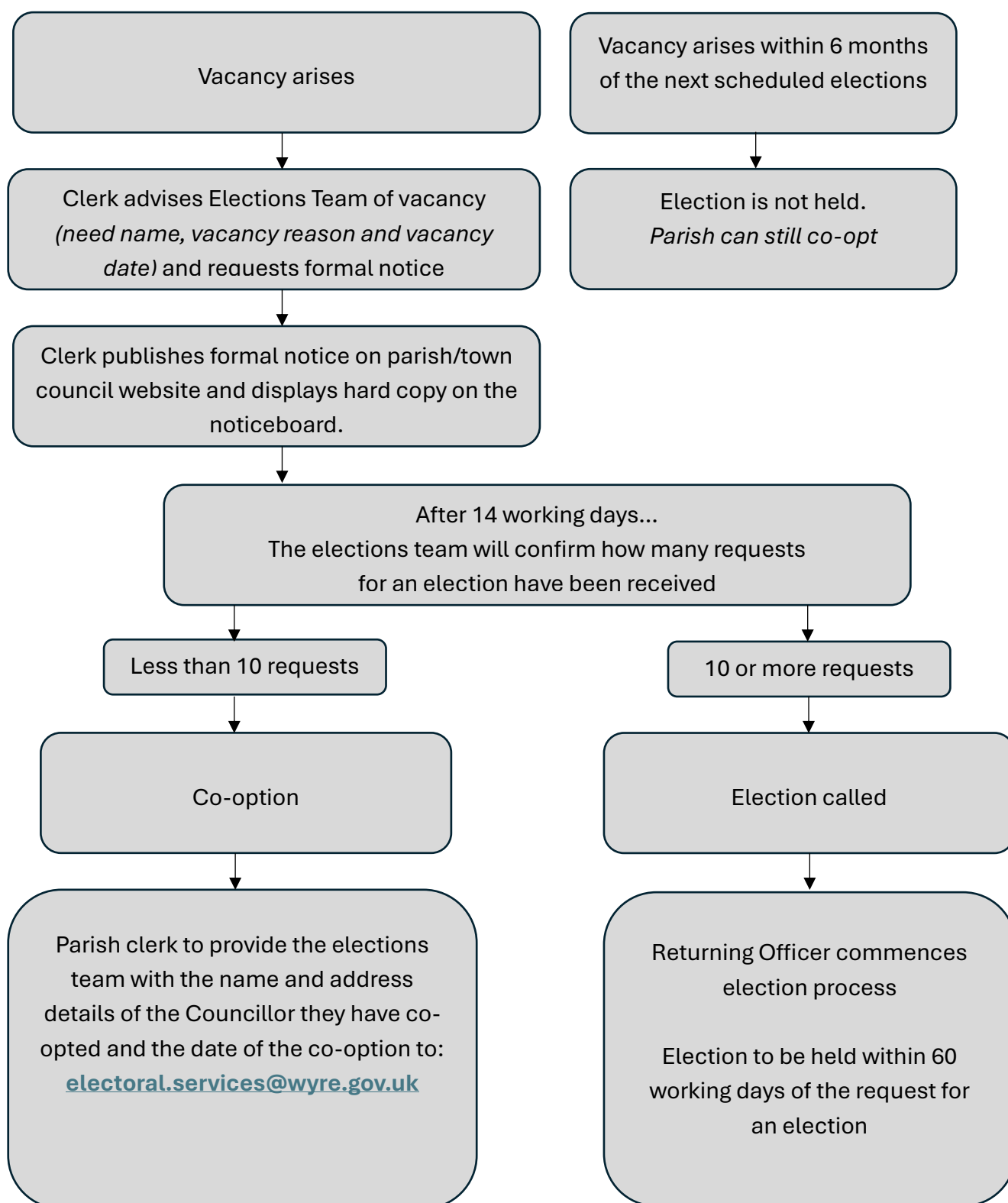
☐

Forwarded the Completed Register of Interest form to Wyre Democratic Services Team?

Email: democratic.services@wyre.gov.uk ?

Appendix 1 – Overview of the casual vacancy process

This diagram gives an overview of the process to follow should a vacancy arise.



In the case that a casual vacancy arises within six months of the date of the next ordinary elections, an election will not be held. The parish council is required to give a notice of the casual vacancy and the council may co-opt if it wishes. Any unfilled positions will be filled at the next ordinary elections.

Appendix 2 - TEMPLATE: Declaration of acceptance of office

DECLARATION OF ACCEPTANCE OF OFFICE

I[1]

having been elected to the office of[2]

of[3]

declare that I take that office upon myself, and will duly and faithfully fulfil the duties of it according to the best of my judgment and ability and in accordance with the Parish/Town Council Code of Conduct (*if applicable*).

Signed: _____ Date: _____

Print Name: _____

This declaration was made and signed before me,

Signed: _____

Proper officer of the Parish/Town Council

(a) Under section 83(3) of the Local Government Act 1972, a declaration for members or elected mayors of a county, district or London borough council shall be made before two members of the council, its elected mayor, its proper officer, a justice of the peace or magistrate in the United Kingdom, the Channel Isles or the Isle of Man, or a commissioner appointed to administer oaths in the Supreme Court. A declaration for members of parish councils shall be made before a member or the proper officer of the council.

[1] Insert the name of the person making the declaration

[2] Insert “member” or “chairman” as appropriate

[3] Insert the name of the authority of which the person making the declaration is a member

Appendix 3 – TEMPLATE: Request for an Election

We, the undersigned ten local government electors of
Parish / Town Council (of [NAME] of parish ward),
hereby request that an election be held to fill the casual vacancy in the office of parish /
town councillor as published in the notice of vacancy dated

	Signature	Address on Register of Electors	Electoral number
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			

DATED.....

The signatures of ten electors for the parish [or parish ward, where warded] in which the vacancy is held are required. However, there is no limit on the number of signatories, and you may wish to add further signatories in case it is found that one of your signatories is not a registered elector for the parish [or parish ward].

* Delete or amend as appropriate

**Please note, not all parishes are warded at parish level – delete/amend as appropriate

Appendix 4 – TEMPLATE: Advert for a councillor

(example wording taken largely from www.local.gov.uk/be-councillor)

Want to be a Parish Councillor?

If you are passionate about your local community, we need you. Councillors make a huge difference to the quality of life of local people and how local issues are dealt with. We need people from all backgrounds and experiences who reflect the communities they serve to put themselves forward.

We have a Vacancy on [name] Parish Council - Are you interested in becoming a Councillor?

Following the recent elections / resignation / sad death / disqualification we have a vacancy for [number] Councillor(s) to join [name] Parish Council.

These/these [number] councillor(s) will be filled by a process called co-option.

We are now inviting applications from local people to join [name] Parish Council.

In terms of eligibility, you must be a British, Commonwealth or European Union citizen, over 18 years old and are registered to vote in the area; or have lived, worked, or owned property here for at least 12 months.

Responsibilities of the Parish Council

The Parish Council is responsible for [insert examples]. It also determines how much money to raise through the council precept to deliver these services to the residents of the parish.

What kind of person do we need?

You should have an active interest in local issues and things that affect local people and a willingness to represent the views of the community. You should be able to commit the time and effort to the role and to attend as many monthly Council meetings as possible, and you will be required to join one or two of the Committees or working groups and attend their meetings.

How to apply

To apply, please send a letter of application to the Parish Clerk at [email] by [time] on [date] or drop off at [address]. In your letter you may wish to include your connection to the parish, why you want to be a parish councillor and what skills / experience you can bring to the Council. Applications will be looked at by Councillors and voted on at a meeting of the [Full] Council on [date] at [time], in [location]. You will be invited to attend and say a few words to the Councillors.