

Councillor Vacancy Policy
For
Wainfleet All Saints
Town Council

Review Date: August 2019

Next Review Date: August 2020

Councillor Vacancies Policy

For the purpose of openness and transparency, Wainfleet All Saints Town Council will endeavour to fill any vacancy (vacancies) at the earliest opportunity.

Qualifications

To be a Town Councillor, a candidate must be either:

- British;
- A Commonwealth National;
- An Irish or European Union citizen;

and

18 years of age or over, and fulfil one or more of the following criteria:

- Registered as a local government elector for the Parish on the current Electoral Register or
- Has during the whole of the twelve months preceding that day occupied as owner or tenant and land or other premises in that area; or
- His/her principle or only place of work during that twelve months has been in that area; or
- Has resided either on the Parish or within 3 miles thereof during the whole of the previous 12 months

Should a candidate only meet the criteria of point 1 above, on the nomination form and subsequently come off the register of electors, the qualification would lapse.

The other three qualifications remain valid for the four year term, so even if a successful candidate left the parish s/he would not be required to resign, although it might be considered appropriate to do so.

Resignation

A Councillor may resign at any time by giving written notice, addressed and delivered to the Chairman of the Town Council. The Chairman must accept the resignation and there is no legal procedure for withdrawing a notice of resignation once delivered and accepted.

Resignation takes effect immediately upon receipt and cannot be post-dated.

Disqualification

Reasons for disqualification include (but not limited to) bankruptcy; being employed by or doing paid work for the Council (except as a contractor); a criminal conviction with a prison sentence of three months or more; illegal expenditure; or being found guilty of corrupt or illegal practices in election law.

Other Causes of Vacancy

- Death;
- Failure to sign a Declaration of Acceptance of Office;
- Failure to attend meetings for a period of six consecutive months.

Procedure for Filling Casual Vacancies

When a vacancy arises on the Town Council following:

- A Councillor's Resignation;
- Disqualification or Failure to remain qualified;
- Death

the process to fill the vacancy is as follows:

1) The Town Clerk must notify the Returning Officer at East Lindsey District Council of the vacancy;

then, either:

2) The Town Council must display a notice informing the residents of the parish of the vacancy. The notice will run for 14 working days (excluding weekends and bank holidays) from the date it is displayed on Town Council notice boards, giving the residents of the ward the opportunity to call for an election to fill the vacancy during this period. The Town Council will also post the notice on the Town Council website, and, if the publication schedule allows, the Town Council newsletter.

or

3) if the vacancy occurs within six months of the next scheduled elections for the Town Council, there is no option to hold an election. The Town Council may fill the vacancy by co-option or the seat remains vacant.

Calling an Election

During the period of fourteen days 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. They must make their request in writing to the Returning Officer (via the Town Clerk if required).

If such a request is received within the 14 days, the Returning Officer will set a date for the election (which must be within 60 days of the date of the vacancy notice).

Notices will be displayed announcing the election and explaining how to apply to be a candidate for election. The cost of any election is borne by East Lindsey District Council. If there are not enough nominated candidates at the election to fill the vacancies, a further election must be called. Co-option is not an option.

If an Election is Not Called

The Town Council will be notified by the Returning Officer and must fill the position by co-option as soon as practicable.

Vacancies after Ordinary Town Council Elections (every 4 years)

If fewer valid nominations were received for any ward within the Town Council boundaries at the four yearly elections, all those validly nominated will be declared elected.

If enough Councillors are elected to form a quorum (7), the Town Council should seek to fill any remaining vacant seats by co-option as soon as possible after the election date. Should it fail to fill the vacant seats within 35 working days (excluding bank holidays and weekends), or if not enough Councillors were elected to form a quorum, East Lindsey District Council may order another election. Councillor Vacancy Policy Review Date: November 2016

Co-option

Although the process for co-option is not prescribed in law, District Councils and Local Council Associations provide best practice advice and guidelines.

It is especially important that all applicants be treated alike so that the arrangements are seen as open, fair and transparent.

The co-option process adopted by Mablethorpe & Sutton Town Council is as follows:

i) The Town Council will only consider any interested applicants who have gone through the nomination / election process in the first instance;

If those persons do not wish to be considered for co-option, or those candidates are considered unsuitable by the Town Council;

then:

ii) The Town Council will advertise the vacancy (or vacancies) on the Town Council noticeboards, the Town Council website and, if the publication schedule allows, the Town Council newsletter.

The notices will include:

- The contact details of the Town Clerk to enable prospective co-option candidates to obtain further information on the role of a Town Councillor;
- Details of the co-option process;
- The closing date for all expressions of interest;
- The date on which the Town Council intends to make a decision.

The Town Council (or parishioner) can legally approach individuals to suggest that they might wish to consider putting their names forward for co-option.

i) When the applications are received, the Town Clerk will review all application details and carefully check that applicants meet the qualification requirements, and confirm that, if successful, their willingness to accept the Code of Conduct and other obligations of a Town Councillor.

ii) Candidates may be asked to submit a short letter with a brief CV giving reasons why they should be considered for the vacancy. These letters will be circulated to Elected Councillors before the meeting at which the decision will be made.

iii) Candidates will be informed of the date of the meeting at which the Town Council will make its decision on the co-option.

Co-option Meeting

Notice of the intention to co-opt must be given in the appropriate agenda for a meeting of the Town Council. Candidates may be invited to the meeting to introduce themselves and to provide Elected Councillors the opportunity to ask questions of them; the Town Council retain the right to rely on written submissions alone.

If candidates are not invited to speak at the co-option meeting they are welcome to (but not required to) attend as members of the public.

The Town Council may only discuss each candidate's suitability for the role when s/he and members of the public are not present. (Closed session)

Co-option Voting Process

If there are equal or fewer candidates than vacancies, the Town Council can vote on a composite motion, duly proposed and seconded, that all candidates be co-opted.

If there are more duly proposed and seconded candidates than seats, it will be necessary for existing Councillors present at the meeting to vote.

Arnold Baker on "Local Council Administration" (9th Edition) recommends that:

- i) A successful candidate should have received an absolute majority vote of those present and voting. If there are more than two candidates for one vacancy and none of them at the first count has an overall majority, the candidate with the fewest votes should be eliminated and the remainder put to the vote again. The process should be repeated as necessary until one candidate has an overall majority.
- ii) Each vacancy should be filled by a separate vote or series of votes. In a small council there is a distinct possibility that there could be a tie for last place in the first round of voting, leaving the candidate for elimination to be decided by lots.

After the Vote

- i) The Town Clerk will notify the candidates of the results by telephone and email, as soon as is reasonably possible (usually within 24 hours) this is not the duty of any Elected Member.
- ii) Successfully co-opted candidates become Councillors in their own right with immediate effect and are no different to any other member. As such, they must sign a Declaration of Acceptance of Office and complete and return a Register of Interests Form at their first meeting, or within 28 calendar days of election, whichever is the sooner. Their term of office runs until the next quadrennial elections for the Parish Council.

***Notes**

This content within this document is based upon a study of legislation and adopted practices of District and Parish / Town Councils (nationwide) and follows advice from the Lincolnshire Association of Local Councils.

It is intended as a summary of the most relevant points of procedure and legislation rather than a definitive exposition. Unless specified otherwise, periods of days given in this document refer to working days, that is, they exclude weekends and public holidays.

Legislation covering casual vacancies can be found at:

<http://www.legislation.gov.uk/ukxi/2006/3305/article/5/made?view=plain>

Date calculation is given in Schedule 2 Part 1 paragraph 2 of Statutory Instrument 2006/3305 and can be found at:

<http://www.legislation.gov.uk/uksi/2006/3305/schedule/2/made>

Adopted by Wainfleet All Saints Town Council

SignedMayor/Chairman

SignedClerk

Date.....