

KINGS WALDEN PARISH COUNCIL

COUNCILLOR VACANCY POLICY

Introduction

A council is obliged to fill a vacancy as soon as practicable after the vacancy occurs. A vacancy must be advertised (not necessarily in a newspaper) for a period sufficient enough for electors to call an election if they so choose. If the vacancy[ies] is not filled within a reasonable time period the local authority (North Herts District Council) has the power to appoint Members to bring the council to full membership. In Kings Walden's case there should be eight councillors.

It is part of the political process to elect members to local government and, as such, local councils should precept sufficiently to cover the cost of elections in the event of an election being called whenever a casual vacancy occurs.

The ideal situation is that all members are elected to the Council so that co-option is not necessary since this may be viewed as selecting people who are the choice of the council and not the choice of the people. However, when a vacancy cannot be filled by election, the Council must fill the vacancy by co-option in pursuance of Section 21(2) of the Representation of the People Act 1985.

How does a vacancy occur?

A vacancy can occur for the following reasons:

When insufficient candidates have stood for election during an election year. These vacancies should then be filled in pursuance of the Representation of the Peoples Act 1985 s21 [2][a].

When a councillor resigns, dies or becomes disqualified. This is known as a casual vacancy which should be filled in pursuance of the Representation of the Peoples Act 1983 s36. (LGA 1972 s89.)

Advertising the vacancy

When a casual vacancy occurs the council must advertise it as soon as is practicable and, if within the prescribed time, an election is called, then the vacancy will be filled following a bye-election. A vacancy caused through disqualification or non-attendance must be advertised immediately (LGA 1972 s86.). Where a vacancy occurs following an ordinary election the vacancy should be advertised but without the necessity of advertising a potential bye-election.

The election process is undertaken by the principal authority. If, however, an election is not called then the council must fill the vacancy by co-option, unless the vacancy occurs within 6 months prior to an election year when the council has no obligation to fill the vacancy. Neither will an election be held if a casual vacancy occurs within 6 months before a resigning councillor would normally retire, although the vacancy can be filled by co-option.

The Council is not obliged to co-opt any prospective candidate and, if it does not, it must continue to seek a suitable candidate to fill the vacancy.

Co-opted councillors are still full members of the Parish Council.

Procedure for filling a vacancy following an ordinary election

1. The Parish Council has 35 days in which to fill a vacancy following the date when the newly elected Parish Councillors take office and the following steps will be taken to fill a vacancy(ies).
2. The Parish Clerk will notify the Parish Council of the vacancy(ies) to be filled.
3. The Parish Clerk will advertise the vacancy(ies) on the Parish Council's notice boards, and on the Council's website.
4. Prospective candidates must complete the Council's application form, (available upon request

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from the Parish Clerk) and return it to the Parish Clerk by the closing date advertised on the 'Notice of vacancy for councillor'.

5. All applications will be treated in accordance with the Data Protection Act 1998.
6. All applications will be considered at a Parish Council meeting to which all candidates will be invited to attend.
7. All candidates will be invited to give a short presentation of up to three minutes on why they want to become a councillor, and Parish Councillors may ask questions of them. The same questions will be put all candidates.
8. Following the interview the Parish Council will undertake a ballot, in accordance with Standing Orders, to determine the successful candidate(s). (If no candidate is selected, the Parish Clerk will re-advertise the vacancy.)
9. The successful candidate(s) will be notified of their appointment to the Council by the Chairman.
10. Newly co-opted Members have a duty to attend all future Council meetings and must sign a 'Declaration of acceptance of office', made in the presence of the Proper Officer, either before their first Council meeting, or at a later date fixed by the Council. Failure to do so leaves the office vacant. (LGA 1972 s83)
11. Newly co-opted Members must complete their 'Register of Interest' within 28 days.

Procedure for filling a casual vacancy

1. When a casual vacancy occurs the Parish Clerk will advertise the vacancy, by public notice, on the Parish Council's notice boards, and on the Council's website.
2. A copy of the Notice will be delivered to North Herts District Council, the responsible body for the election process, should an election be called. (See [3] below.)
3. If within 14 days from the date of the Notice, 10 electors for the parish give notice in writing to the Returning Officer requesting an election, a bye-election will take place. The casual vacancy must then be filled by election and not co-option.
4. If there is no request for an election then the Council will fill the vacancy by co-option.
5. The Parish Clerk will re-advertise the vacancy on the Parish Council's notice boards and on the Council's website.
6. Prospective candidates must complete the Council's application form and return it to the Parish Clerk by the closing date advertised on the 'Notice of vacancy for councillor'.
7. All applications will be treated in accordance with the Data Protection Act 1998.
8. All applications will be considered at a Parish Council meeting to which all candidates will be invited to attend.
9. All candidates will be invited to give a short presentation of up to three minutes on why they want to become a councillor, and Parish Councillors may ask questions of them. The same questions will be put all candidates.
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Voting procedure

The whole procedure should be carried out in public. All candidates are members of the public and are entitled to be present throughout the meeting; the selection procedure should not be carried out in closed session.

When there are more than two candidates for one vacancy then members will vote until there is a majority vote. Voting must be carried out according to the Council's Standing Orders thus:

1. Members shall vote by a show of hands, in accordance with the Council's Standing Orders.
2. Where more than two persons have put themselves forward for co-option, and there is not an absolute majority in favour of one person, the person having the least number of votes shall be struck off the list of candidates and a fresh vote taken. This procedure will be repeated until a majority vote is given in favour of one person.
3. In any case of an equality of votes the Chairman may give a casting vote.
4. The successful candidate(s) will be informed of their appointment to the Parish Council by the Chairman.
5. Where there is more than one vacancy to fill, each newly co-opted Member will sign their 'Declaration of Acceptance of Office' and participate in the remainder of the meeting forthwith, before any other co-option is considered.

Adopted 22nd April 2014