

## West Butterwick Parish Council

### Co-Option Procedure

A Casual Vacancy can be created:

- When a Councillor fails to sign their Declaration of Acceptance of Office within the prescribed time-scale
- when a notice of resignation is received
- on the day of the death of a Councillor
- upon disqualification
- in the case of an election being declared void
- through the non-attendance of an Elected Member for a period of six months.

The most likely case for Clerks to deal with is the latter. The Clerk has to ensure that a vacancy has actually arisen. Attendance at any meeting of the Council, its committees (provided they have been properly convened) or any meeting where a Councillor has been previously asked to represent the Council, counts as attendance. For example, if a Councillor did not attend any Council meetings for five months and then attended an ERNLLCA District Committee meeting (to which they were the agreed Council delegate) then the six-month rule can only apply from the date of the ERNLLCA meeting. Such a ruling could apply to Joint Burial Boards, Village Hall Committees or any body to which the Council nominates delegates to attend.

A notice of resignation can be acted upon when it is in the Clerk's hands or has been handed to the Chairman but the Council should be informed of the resignation. If a Councillor fails to attend any council or committee meeting (or any meeting of an approved body where he or she would have represented the Council) in a six-month period, then he or she **automatically ceases to be a member** of your Council. The six-month period is measured from the date of the last meeting attended. There are mitigating circumstances such as absence because of approved duties (e.g. military service) or where non-attendance has been approved by Council (e.g. illness, working away from home). However this cannot be done retrospectively if the six months has already been exceeded. The Clerk is not under any duty to remind a Councillor that a period of absence is approaching six months, but in a well-run Council a Clerk will presumably contact a Councillor who has not been to meetings for some time. Apologies for absence do not count as if they are attendance.

Once the Clerk is satisfied that a vacancy exists they will contact Electoral Services at the Unitary Authority and that Office will arrange for a public notice to be posted, within the parish, advertising the vacancy. If ten electors call for a poll then an election will be held within 60 days of the notice of the vacancy. This will all be handled by Electoral Services. If no poll is claimed the Council will be informed that the vacancy may be filled by co-option. A notice of co-option will be advertised on the Council website and noticeboards for a period of not less than 1 month.

Application for any vacancy will be via the Parish Council's application form and must be sent to the Clerk no later than 1 week before the Parish Council meeting where the co-option is due to take place.

Following public notice of the vacancies, the Parish Council will co-opt onto their council any person provided that person is qualified to be a councillor pursuant to s. 79 Local Government Act 1972 ("the 1972 Act") and is not disqualified pursuant to s.80 of the 1972 Act.

The Parish Council will satisfy itself by its own investigation or, if this is not possible, by evidence provided by the proposed candidate that:-

- A person meets the criteria for eligibility to be a member of the council (criteria is set out in s.79 of the 1972 Act).

and

- A person is not disqualified to be a member of the council (criteria is set out in s.80 of the 1972 Act).

Once the Parish Council is satisfied that a candidate is eligible to be co-opted onto a council it will employ a fair and transparent process to assess the suitability of a proposed candidate who wishes to be co-opted. The Parish Council will assess if a proposed candidate has the skills expected and or has any additional expertise or areas of interest which will assist the council exercise their various functions. All candidates should be assessed in the same way.

The Local Government Act 1972, Schedule 12, paragraph 39 states that a successful candidate (i.e. the person who is co-opted) must receive an absolute majority vote of those present and voting i.e. if a council has 11 members, the successful candidate must have a minimum of 6 votes to be successful. If votes are spread amongst candidates and there is no absolute winner, then the candidate with the lowest votes must drop out and further ballots undertaken until the required number of votes (i.e. an absolute majority) is reached. Each councillor only has one vote for each vacancy in each ballot.

If more than one candidate receives the same number of least votes the council will have a specific vote between those candidates or it is possible that one such candidate may withdraw thus easing the selection of others or negotiations may take place between candidates for one to step aside. If all of this does not transpire the council will strike one off by means of vote.

If there is only one applicant the council will co-opt or otherwise, as it thinks fit. The council is not obliged to give any preferential treatment to an unsuccessful candidate from a previous election.

The council will assess candidates by asking for a written submission by way of the application form. Candidates will be invited to the meeting at which the co-option is due to take place by the Clerk. A candidate may make a verbal representation to the council if they so wish. All candidates **will** be treated the same way. The co-option process should be transparent and must not be an exempt item. Transparency in the co-option process **is in the public interest**. Voting for candidates is by show of hands, the law does not allow for secret ballots.

## Procedure For Filling a Council Vacancy

