

Briefing Note

Casual Vacancy & Co-option Policy

8 minute read

1.0 What is a casual vacancy?

This is the term used to describe the vacancy for a councillor that occurs in between the normal four yearly election cycle. It's usually unexpected and can occur for one of several reasons:

- a councillor resigns or
- a councillor fails to attend meetings for six consecutive months or
- a councillor dies or
- a councillor fails to deliver their declaration of acceptance of office at the proper time or
- in the case of a councillor who is disqualified because of a criminal conviction, under section 34 of the Localism Act 2011 (England)
- the date of a report or certificate of an election court that declares an election void;
- a person ceases to be qualified to be a councillor for a reason not mentioned above;¹

This briefing note explains what the council's policy is in relation to filling the vacancy. It is a strict legal process, but councillors have some flexibility in how they implement the law.

2.0 First steps

2.1 Once the Clerk's Office or the Chair has been notified about the vacancy (for example, receiving a letter of resignation), Democratic Services at New County Hall must be informed so that their records can be updated.

2.2 If the period of vacancy has six or more months to run until the next ordinary election, the Council must use the co-option process, as soon as practicably possible. If the next ordinary election is within six months, the Council may choose whether or not it wishes to co-opt. This decision can be made in the public meeting or by the Chair following discussion and briefing. If the decision to fill the vacancy is agreed, this procedure will be followed:

2.3 A vacancy on the council must first be advertised by Cornwall Council offering the public the opportunity to fill the vacancy by bye-election. At least 10 members of the public must demand a poll to require the parish/town council to fill the vacancy by public bye-election.

2.4 If there is no demand for a bye-election, the parish council will be notified by the Electoral Officer of Cornwall Council that they are free to co-opt to fill the vacancy which can then be done at a subsequent council meeting.

2.5 The Clerk will post the election notice on its website, social media pages and the principal parish noticeboards and include a progress report as an agenda item at every council meeting until the vacancy is filled.

¹ Section 87 of the 1972 Local Government Act

2.4 Enquiries received by the Clerk's Office will be acknowledged at the earliest opportunity, and the applicant will be sent a copy of:

- Councillors Role Profile
- Good Councillors Guide
- Questionnaire (to complete and return)

2.5 When the completed questionnaire has been returned, the Clerk will add the co-option to the next agenda, creating an item that will be the final topic of the public meeting.

3.0 Interview

3.1 The Council is not obliged to select anyone from the candidates who apply in the co-option process; if the process is unsuccessful (whether through lack of or no suitable candidates which achieve a majority vote) then the Council will rerun the co-option process, subject to the timescales at 2.2 above.

3.2 Co-option provides an opportunity for the Council to assess any skills gaps from within its members and advertise for applicants with the desirable skills to apply. Not holding the identified skills should not, however be reason alone for not considering an applicant and the Council will need to be mindful of this throughout the process.

3.3 Copies of all applications will be circulated to all Councillors by the Clerk as part of their reports bundle at least three clear working days prior to the Council meeting where the co-option will be considered. The applications will be treated by the Clerk and Councillors as strictly confidential.

3.4 All eligible candidates will be invited to attend the Council meeting at which co-options will be considered. The co-option agenda item will be carried out by Council in public session as the penultimate agenda item (the final item will be a closed session to discuss and agree an outcome)

3.5 A maximum of five minutes will be allowed per candidate for them to present themselves. The Chair and Vice Chair will lead with standard questions that will be posed to all candidates. Councillors may then ask questions of the candidates following this part of the interview. The candidate is invited to ask questions of the councillors.

4.0 Assessment and decision making

4.1 The candidate will be asked to leave the room and council will move to a closed session for discussion and decision. The Chair will lead the assessment process.

4.2 Councillors should evaluate and assess the candidate against the role profile and any special skills gaps that have been previously identified. Evidence of competence and experience should be part of the assessment

4.3 Councillors who have previously made a declaration of interest at the start of the meeting may be excluded from the discussion or vote at the Chair's discretion.

4.4 Voting may be taken after a proposal and then by a show of hands or paper ballot.

4.5 In accordance with Standing Orders, the Chair may exercise their right to use a casting vote in the case of a tied vote.

4.6 The Council is not obliged to fill all or any vacancies. If this is the case, steps will be taken to advertise for further co-options, subject to the timescales at 2.2 above.

5.0 Successful Co-option – Next Steps

5.1 Successfully co-opted candidates become Councillors in their own right, with immediate effect (subject to the signing of the declaration of acceptance of office).

5.2 Clerk will confirm the councillors' decision by email, provided with a welcome pack and invited to attend an induction and training session with the Clerk. This should take place before the next Council meeting.

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