

# **This Tur Langton Parish Council**

## **Councillor Vacancies Policy – Draft for meeting 23/5/23**

### **1. Purpose**

- Tur Langton Parish Council has five seats which are available for election on a four-yearly basis. Seats which are not filled by election may be made available for co-option.
- The purpose of this policy is to ensure that the Council has a clear process for dealing with vacancies and to give information to members of the public of how a vacancy may be filled.
- Tur Langton Parish council will endeavour to fill any vacancy (vacancies) at the earliest opportunity.

### **2. Reasons for vacancies**

#### Seats left vacant following a scheduled election

Tur Langton Parish Council has five seats available for election on a four-yearly basis.

- If the number of nominations is greater than five, an election will be held.
- If the number of nominations is five, the election is uncontested. Those nominated are elected.
- If the number of nominations is fewer than five but sufficient to reach quorum, the election is uncontested. Those nominated are elected. The vacant seats are available for co-option. This is defined as an “ordinary vacancy”.
- If the number of nominations is fewer than the number required for quorum, the council will not be able to meet. Candidates who have been successfully nominated are elected but may not yet take their seats. The principal authority will call another election to allow further nominations.

#### Resignation

A councillor may resign at any time by giving written notice to the chairman of the parish council. The chairman must accept the resignation. A written resignation cannot be withdrawn. Resignation takes effect immediately upon receipt and cannot be post-dated. A written resignation to the clerk shall be considered the same as delivering it to the chairman. The chairman will be notified at the earliest opportunity. A verbal statement of resignation or intention to resign has no legal standing.

#### Disqualification

Reasons for disqualification include but are 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;
- 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.

Resignation, Disqualification and those listed as “Other Causes of Vacancy” are all “Casual Vacancies”.

**3. Vacancies after ordinary parish council elections**

- If fewer valid nominations were received for any ward within the parish council boundaries at the four yearly elections, all those validly nominated will be declared elected.
- If enough councillors are elected to form a quorum, the Parish 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 thirty-five working days, Harborough District Council may call another election.
- If not enough councillors were elected to form a quorum, Harborough District Council will call another election.

**4a. Procedure for filling casual vacancies**

When a casual vacancy arises on the parish council due to death, resignation or disqualification, the process to fill the vacancy is as follows:

- The clerk to council must notify the returning officer at Harborough District Council of the vacancy.
- Different arrangements apply depending on the timing of the vacancy.

i	If the vacancy occurs more than six months from the next scheduled election for the Parish Council	The Parish Council must display a notice informing the residents of the parish of the vacancy, giving the residents of the parish the opportunity to call for an election to fill the vacancy during this period.	The notice will run for fourteen working days from the date it is displayed.	Methods of publication include Parish Council noticeboards, Parish Council website and social media.
ii	If the vacancy occurs within six months of the next scheduled election for the Parish Council	Residents will not be given the opportunity to ask for an election.		

## Calling an Election

During the period of fourteen working days from the date the public notice of the vacancy was displayed, electors from the parish can call for an election to be held to fill the vacancy. Requests must be made in writing to the Returning Officer at Harborough District Council (via the clerk to council if required).

### If an election is called

If a request for election is received from ten electors within the fourteen working days, the returning officer will set a date for the election. This must be within sixty 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 the Parish 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 permitted in these circumstances.

### If an election is not called

If a request for election is not received from ten electors within the fourteen days, the Parish Council will be notified by the returning officer. The council must fill the position by co-option as soon as practicable.

## **4b. Procedure for filling 'ordinary vacancies'**

you are allowed to fill ordinary vacancies by co-option within 35 days of the election. These are not treated the same as a casual vacancy which arises through the term of office.

- Harborough District Council does not need to be notified as they will already know of the vacancy
- it is not required to advertise the vacancy to ask the residents if they would like a by-election
- it is not required to wait 14 days for 10 electors to respond

## **5. Qualifications**

Qualifications for becoming a member of a Parish or Town Council, are set down by legislation. To be a parish councillor, a candidate must be eighteen years of age or over **and** either

- British;
- a Commonwealth national;
- an Irish or European Union citizen;

**and** fulfil one or more of the following criteria:

1. being on and remaining on the register of electors for the parish:

or, during the whole of the twelve months preceding the nomination;

2. have lived in, worked in or lived within three miles of the parish boundary.

Should a candidate only meet the first criteria of being on the register of electors and subsequently come off the register, the qualification would lapse.

The other three qualifications remain valid for the four-year term. Even if a successful candidate left the parish, they would not be required to resign. However, it might be considered appropriate to do so.

## **6. Co-option**

Although the process for co-option is not prescribed in law, principal authorities and LRALC provide best practice advice and guidelines.

It is essential that all applicants be treated alike so that the arrangements are seen as open, fair and transparent. The co-option process adopted by Tur Langton Parish Council is as follows.

- The Parish Council will 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 by the parish council, the Parish Council will advertise any vacancies using parish council noticeboards, website, newsletters, social media and/or any other appropriate methods.

The notices will include:

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

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

When the applications are received, the Clerk to Council will review all application details and check that applicants meet the qualification requirements.

Candidates may be asked to submit a short letter 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.

Candidates will be asked to confirm their eligibility for office.

Notice of consideration of vacancies must be given in the appropriate agenda for a meeting of the Parish Council. Candidates may be invited to the meeting to make a brief presentation and to give councillors the opportunity to ask questions. The Parish Council retains the right to rely on written submissions alone. Presentations and questioning take part in public.

Discussion by members of council of presentations from candidates may take place in private. Candidates and other members of the public may be asked to leave the room at that point. Proposals that candidates may be considered as candidates and voting take place in public. Candidates and other members of the public will be asked to return.

### Co-option Voting Process

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

NALC's opinion is that in this case, candidates shall be appointed to the council as long as they are eligible under Local Government Act 1972 sections 79 and 80. Council cannot be selective here; if a candidate is qualified to hold public office, they should be co-opted. See LTN8.

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

*From Arnold Baker on "Local Council Administration" (13th Edition):*

*"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".*

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.

The clerk to council will notify the candidates of the results in person, by telephone or by email, as soon as is reasonably possible. This is not the responsibility of any elected member.

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 before or at their first meeting of council. They must also complete and return a register of interests form to the principal authority within twenty-eight calendar days of election. Their term of office runs until the next scheduled elections for the Parish Council.

## **7. Notes on legislation**

This content within this document is based upon a study of legislation and adopted practices of District and Parish councils nationwide and follows advice from the Leicestershire and Rutland 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 excluding weekends and public holidays.

Legislation covering casual vacancies can be found at:

<http://www.legislation.gov.uk/uksi/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>

## **8. Review**

This policy should be reviewed on a biennial basis or in response to changes in relevant legislation.

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