

# CASUAL VACANCY

## Occurring between Elections

Cornwall Contacts:

Changes to listings of Councillors

[ptcchanges@cornwall.gov.uk](mailto:ptcchanges@cornwall.gov.uk)

Notice of election

[voter-registration@cornwall.gov.uk](mailto:voter-registration@cornwall.gov.uk)

A Casual Vacancy for Parish/Town Councillor occurs whenever a member vacates the office of Councillor. There are a number of reasons why such a vacancy occurs: by death, resignation, disqualification or by ceasing to be qualified to be a Councillor. A vacancy is also created by the failure to sign a declaration of acceptance of office within the statutory time (by the end of the first available council meeting or by such time as the council, at that meeting, may resolve).

In the event of a death, the vacancy is deemed to have occurred on the day of death. A Councillor's resignation occurs on the day of receipt of a letter of resignation delivered to the chairman (note that the Chairman resigns by letter delivered to the council).

Disqualification occurs when a Councillor does something that triggers the disqualification, such as becoming bankrupt and having a Restriction Order issued by the court or being convicted of a criminal offence with a sentence of imprisonment (including one that is suspended) for a period exceeding three months without the option of a fine.

A member ceases automatically to be a Councillor if she/he is absent from any meeting of council or committee etc., for a period of six months unless the council approves of the reason for absence before the expiry of the six months. The date of expiry of the six months is the date that counts for the purpose of the vacancy

### **RETURNING OFFICER**

Returning Officer (usually the Chief Executive of the relevant District authority) is referred to in formal Notices. In practice, the clerk will communicate with the Electoral Officer (who acts for the Returning Officer).

### **ADMINISTRATION PROCEDURE**

A vacancy is declared by the council, but in some cases this duty is delegated to the clerk as part of standing orders or a Scheme of Delegation. The clerk, immediately upon declaration of a casual vacancy, should contact the Electoral Officer (see form CV1 attached) to agree the formal date for posting standard notices of vacancy. The Electoral Officer may provide notices, which the Clerk should affix to the main notice board and, if practical, at other notice boards in the election area, which may be the parish or ward of the parish. If there is any doubt about the area to be covered the Electoral Officer will advise. Notice must be given as soon as possible after any resignation. However, it is common practice to delay the publication of the notice in the event of death until after the funeral.

If there is less than 6 months remaining before the Councillor would ordinarily have retired (elections every 4 years) a by-election cannot be held and the council may fill the vacancy by co-option (see below) but it is not obliged to do so.

## **THE TIMETABLE**

The legislation requires that 14 days must elapse from the date of the notice by the end of which an election will be held if ten or more electors have given written notice to the Electoral Registration Officer that they require an election to be organized. The “Days” are electoral working days, i.e. excluding weekends, bank holidays and special days of thanksgiving and mourning.

At the end of the 14-day period the Electoral Officer will notify the clerk, within 3 working days either that an election has been properly called by ten electors of the election area or that the vacancy must be filled by co-option. If there is to be an election, all necessary action will be undertaken by the Returning Officer within 60 electoral days.

The council should ensure that notice boards in the parish are sufficient for the geography of the parish and appropriate for the notices involved.

## **NO ELECTION REQUIRED**

If no election is required by the requests to the Electoral Role Officer, then the council has 35 electoral days in which it must co-opt a new member to fill the vacancy.

The clerk will post a notice seeking candidate/s to fill the casual vacancy (form CV2 attached) at each notice board in the election area, and if appropriate a notice in the parish magazine/local newspaper and on the parish website. If the area is small it may be appropriate for a note from the clerk to be delivered to each household in the parish to encourage more interest. The clerk might keep a stock of the NALC booklet, “The Good Councillor’s Guide” for interested persons (available for free download from the SALC website; somerset-alc.org.uk)

Council may wish to use the application forms (form CV3 attached) which should be freely available within the parish and if appropriate via email (the criteria 1-4 are a statutory requirement). The information on the forms should be checked by the clerk to ensure that the candidate is eligible to stand. Any one of the four qualifications shown on the application form will satisfy the requirement.

## **CO-OPTION**

The parish council must consider co-option to fill the vacancy in open session at a meeting within 35 electoral days from the date of the “Notice of no election” from the Electoral Officer. After proper notice on the agenda delivered to each Councillor copies of the application form/s should be sent to each Councillor. If this is not practical a note on the agenda saying the applications will be available to be read prior to the meeting will suffice.

Voting is normally by a show of hands, but many councils opt for a paper ballot if standing orders permit. This is not a secret ballot as the paper should be signed by the Councillor to ensure that one member has not voted twice. The clerk should be prepared for this possibility. Council or standing orders should require destruction of the ballot papers at the conclusion of the meeting (or they risk being available for production as a public document under the Freedom of Information Act, which undermines the use of the paper ballot).

The council must, as part of the meeting, resolve by an absolute majority of those present and voting who to elect to the council. Each candidate must be proposed by an existing Councillor, and if required by standing order, seconded (it may be that not all candidates expressing an interest get proposed equally, but not expressing an interest is not a barrier to a proposal). The successful

candidate must have an absolute majority of votes cast at the meeting. If after the first vote there is not an overall majority the candidate with the smallest number of votes is required to drop off the list and a new vote taken, this procedure continues until a majority is reached. The chairman has a casting vote in the event of a tie between two candidates.

The casting vote may be chosen by the chairman personally or by the toss of a coin; the chairman has no choice but to resolve the tie. The procedure cannot be carried out after excluding the public or the candidates. **IT MUST BE DONE IN PUBLIC**

	A	A1	B	C
Name	Votes	Votes	Votes	Votes
Mr. Smith	5	5	4	4
Mrs. Jones	4	6	4	2
Ms Baily	2		0	0
	Drop Ms Baily Vote again See A1	Mrs. Jones Co-opted	Chair casting Vote to decide	Mr. Smith Co-opted

All results must be recorded in the minutes, but after conclusion of the voting the chairman should declare that the new Councillor has been co-opted and arrangements then should be made (and a resolution passed) for the new member to sign a declaration of acceptance of office. If the candidate is present it can be done immediately and she/he is then entitled to take part in the remainder of the meeting. If not the council must resolve that it must be signed before the next meeting of the council.

It has been suggested by one authority that for a new Councillor's attendance at the same meeting at which they were co-opted to be lawful, they should have had three clear day's notice of the business to be transacted. Thus it is advisable to send a detailed agenda to every known candidate.

If not present, the council must resolve to set a date by which such declaration must be completed – usually before the start of the next meeting of council.

The Councillor has then become a member and has the same status as any other member and remains a member until the next normal election date (subject to the other events that might intervene). A co-opted member is not able to claim a member's allowance other than for travel and subsistence.

The clerk should inform the Electoral Role Officer that an election has been made (form CV4 attached) and make arrangements with the new Councillor to complete the parish council's register of members' interests within 28 days.

**COUNCILLOR VACANCY – NOTICE OF CO-OPTION**

**PARISH COUNCIL OF**

**ST CLEER**

**VACANCY FOR A COUNCILLOR**

**TO BE FILLED BY CO-OPTION**

The above Parish Council will consider filling by co-option a casual vacancy for a Councillor at its meeting to be held

on date:

at time:

Anyone interested in serving the community in this way and want to become a candidate for co-option should obtain an application form for candidacy from the clerk. (also available on the parish council website [www.StCleerParishCouncil.gov.uk](http://www.StCleerParishCouncil.gov.uk))

Completed application forms should be returned to the clerk by date:

Information on eligibility the role of the parish council and its schedule of meetings may be obtained from the clerk and/or the chairman

Clerk:

Chair:

Date:

## St Cleer Parish Council

Application to fill a vacancy for a Councillor on the above council, to be sent to:

**Clerk:**

**Email:** Clerk@stcleerparishcouncil.gov.uk

**Address:** St Cleer Sports Pavilion, Hockings House, St Cleer, Cornwall, PL14 6EE

If successful, you will be required to complete an entry in the parish council's register of members' interests. This involves putting your address, employment, relevant major shareholdings and membership of charities pressure groups, political parties etc., on public record. You will be further required to consent to follow the Code of Conduct for Councillors in Cornwall – a copy of which can be found here:

Mr/Mrs/Ms	
First name	
Other names	
Surname	
Address of candidate	
Will you be at least 18 years old on the date of the Meeting	Yes / No
In order for your eligibility to be confirmed please tick all of the following that apply to you  For full detail on eligibility please refer to your district council's electoral officer.	<ol style="list-style-type: none"> <li>1. On the current electoral register for the Parish/Ward (on-going requirement; you are required to remain on the register throughout your term of office)</li> <li>2. Have lived in the parish or within 3 miles of the parish boundary during the whole of the 12 months before the day of nomination &amp; election</li> <li>3. Main place of business during the last 12 months before the day of nomination &amp; election is based in the parish</li> <li>4. Occupy as owner or tenant property within the parish for 12 months before the day of nomination &amp; election</li> </ol>
Please indicate in no more than 100 words why you would like to join the Parish Council?	

--

The Council has a number of Sub Committees' which Councillors also sit on: with reference to the following areas of Parish Council work, please outline your expertise (from any source) that you would bring to Council.  
Terms of reference for these committees can be found on the St Cleer PC website. Max of 100 words per committee.

<ul style="list-style-type: none"><li>• FINANCE AND BUSINESS</li><li>• ESTATE MANAGEMENT</li></ul>	<ul style="list-style-type: none"><li>• HUMAN RESOURCES</li><li>• PLANNING</li></ul>	<ul style="list-style-type: none"><li>• COMMUNITY EMERGENCY PLANNING</li><li>• COMMUNITY ENGAGEMENT</li></ul>
--	--	---

--

**You will be asked to speak to the Council about the above two items so that voting can be informed. Councillors are permitted to ask questions at this time**

You would be disqualified if you are employed by the parish council, are subject to a bankruptcy Restriction Order, or have been convicted of a criminal offence with imprisonment for 3 months or more, including suspended, within the last 5 years.

I am not aware of any disqualification to my serving as a Councillor

Signed:

Form CV3

## NOTIFICATION OF CO-OPTION

To: The Electoral Officer Cornwall Council

The following

Mr/Mrs/Ms:

First Name:

Surname:

Address:

Post Code:

was co-opted by St Cleer Parish Council

on date:

and has duly signed the Declaration of Acceptance of Office.

Clerk to the Council – name:

Date:



## NOTIFICATION OF CASUAL VACANCY

To: The Electoral Officer Cornwall Council (voter-registration@cornwall.gov.uk)

A Casual Vacancy for St Cleer Parish Council

was declared on date:

by the resignation / death / disqualification of

First name:

Surname:

Clerk to the Council - name:

Date: