



## Oswestry Rural Parish Council

# COUNCILLOR VACANCY POLICY

### Introduction

A vacancy can occur for the following reasons:

- When insufficient candidates have stood for election during an election year. This type of vacancy must be filled in pursuance of the Representation of the Peoples Act 1985, S21 (2)(a).
- When a councillor resigns, dies or becomes disqualified. In this case a casual vacancy occurs and should be filled in pursuance of the Representation of the Peoples Act 1983, S36 and the Local Government Act 1972, s89.

The election of members to local government is part of a political process and sufficient funds should be allocated in the precept to cover the cost of elections.

### Filling a vacancy

Parish councils are obliged to fill a casual vacancy as soon as practicable after it occurs. The vacancy must be advertised for a period sufficient enough for electors to call an election in accordance with Rule 5(5) of the Local Elections (Parishes and Communities) (England and Wales) Rules 2006. This Rule allows TEN ELECTORS for the ward in which the casual vacancy has arisen to request the Returning Officer at Shropshire Council (the local authority) to hold an election to fill the vacancy. If an election is not called to fill a casual vacancy, then the vacancy must be filled by co-option.

If a vacancy is not filled within a reasonable time period Shropshire Council has the power to appoint members to bring the council to full membership. In the case of Oswestry Rural Parish Council full membership is 15 councillors as follows:

WARD	NUMBER OF COUNCILLORS
Maesbury with Aston	3
Morda with Sweeney	5
Rhydygroesau with Llanforda	2
Sychtyn	1
Trefonen with Treflach	4
Total	15

If an election is called by 10 electors, then the vacancy must be filled through a by-election in which case the election process will be undertaken by Shropshire Council. Once an election has been called the vacancy must be filled by election and therefore, if no-one puts themselves forward, the election process will be repeated until someone is elected.

If a casual vacancy occurs within 6 months prior to an election year then an election will not be called and, whilst the council has no obligation to fill the vacancy, it may fill the vacancy by co-option.

Co-opted councillors are still full members of the council.

### Eligibility to become a councillor

In order to be eligible to become a councillor, either by election or co-option, candidates must be a British subject, or a citizen of the Commonwealth or the European Union; and be 18 years of age or older on the 'relevant date' (i.e., the day on which a candidate is nominated, or if there is a poll on the day of the election). Candidates must also meet one of the following qualifications:

- Be registered as a local government elector for the parish of Oswestry Rural; or
- during for the whole of the twelve months preceding the date of election/co-option, occupied as owner or tenant, land or other premises in the parish of Oswestry Rural; or
- their principal or only place of work during those twelve months has been in the parish of Oswestry Rural; or
- during the whole of twelve months resided in the parish of Oswestry Rural or within three miles of it.

Under Section 80 of the Local Government Act 1972 a person is **disqualified** from being elected/co-opted as a Councillor if he/she:

- Holds any paid office or employment of the local council (other than the office of Chairman) or of a joint committee on which the council is represented; or
- Is a person who has been adjudged bankrupt or has made a composition or arrangement with his/her creditors\* (but see below); or
- Has within five years before the day of election, or since his/her election, been convicted in the UK, Channel Islands or Isle of Man of any offence and has been sentenced to imprisonment (whether suspended or not) for not less than three months without the option of a fine; or
- Is otherwise disqualified under Part III of the Representation of the People Act 1983 for corrupt or illegal practices.

This disqualification for bankruptcy ceases in the following circumstances:

- i) If the bankruptcy is annulled on the grounds that either the person ought not to be adjudged bankrupt or that his/her debts have been fully discharged.
- ii) If the person is discharged with a certificate that the bankruptcy was caused by a misfortune without misconduct on his/her part.
- iii) If the person was discharged without a certificate.

In (i) and (ii) above, the disqualification ceases on the date of the annulment and discharged respectively. In (iii), it ceases on the expiry of five years from the date of discharge.

### Advertising the vacancy

In the case of insufficient candidates standing at ordinary elections a vacancy should be advertised but without providing an opportunity for an election to be called. If a vacancy occurs through a resignation, disqualification or non-attendance the vacancy must be advertised as soon as practicable in accordance with the Local Government Act 1972, S86. However, in the case of a casual vacancy being caused by the death of a councillor, then the vacancy may be delayed out of respect, although not for too long.

## Procedure for filling a vacancy following an ordinary election

The parish council has 35 days in which to fill a vacancy following the date when the newly elected councillors take office. If a vacancy exists following an ordinary election the following procedure will be followed:

1. The Clerk will notify the council of the vacancy(ies) to be filled.
2. The Clerk will advertise the vacancy(ies) on the council's notice boards, website and social media.
3. Prospective candidates must complete the council's application form, (available upon request from the Clerk) and return it to the Clerk by the closing date advertised on the "Notice of Vacancy for Councillor".
4. All applications will be treated in accordance with the Data Protection Act 2018.
5. The clerk will confirm that each candidate is qualified to become a Councillor and is not disqualified from being a Councillor as set out in the Local Government Act 1972 s79 and s80. All qualified applications will be considered at a council meeting to which all candidates will be invited to attend. ADD
6. Candidates will be invited to give a short presentation on why they want to become a councillor, and councillors may ask questions of them.
7. Following the interview process, the council will undertake a ballot, in accordance with Standing Orders (Para. 8)
8. The successful candidate(s) will be notified of their appointment to the council by the Chairman.
9. 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).
10. Newly co-opted members must complete their "Register of Disclosable Pecuniary Interest" with Shropshire Council on line system within 28 days from taking office. ADD
11. Each newly elected member will receive a "New Councillor Induction Guide" from the Clerk.

## Procedure for filling a casual vacancy – Co option

1. When a casual vacancy occurs, the Clerk will advertise the vacancy, by public notice, on the council's notice boards, on the council's website and on social media (LGA 1972 s232).
2. A copy of the Notice will be delivered to Shropshire 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 ward give notice in writing to the Returning Officer requesting an election, a by-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 Clerk will re-advertise the vacancy on the council's notice boards, on the council's website and on social media.
6. Prospective candidates should contact the Clerk who will provide them with the council's application form which outlines the criteria that candidates must fulfil in order to be eligible to become a councillor.
7. Completed application forms should be returned to the Clerk by the closing date advertised on the "Notice of Vacancy for Councillor".
8. All applications will be treated in accordance with the Data Protection Act 2018.
9. The clerk will confirm that each candidate is qualified to become a Councillor and is not disqualified from being a Councillor as set out in the Local Government Act 1972 s79 and s80. All qualified applications will be considered at a council meeting to which all candidates will be invited to attend. ADD
10. All candidates will be invited to give a short presentation on why they want to become a councillor, and councillors may ask questions of them. The length of each interview will not exceed 5 minutes.
11. When all the candidates have spoken, the Chairman shall seek proposers and seconders for each candidate. ADD
12. The council will undertake a ballot, in accordance with the 'Voting Procedure' outlined below, to determine the successful candidate(s). The council is not obliged to accept a candidate to join the council and, if no candidate is selected, the Clerk will re-advertise the vacancy.
13. The successful candidate(s) will be notified by the Chairman.

- 14.
15. 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).
16. Newly co-opted members must complete their "Register of Disclosable Pecuniary Interest" with **Shropshire Council on line system** within 28 days of taking office. **ADD**
17. Each newly elected member will receive a "New Councillor Induction Guide" from the Clerk.

## Voting procedure

All candidates for co-option are also members of the public and are entitled to be present throughout the meeting and therefore, in the interests of openness and transparency, the co-option procedure will be carried out in public. However, if the council chooses to do so, voting may take place by secret ballot, but the formal resolution and vote will be held in public. **REMOVE**

When there are more than two candidates for one vacancy then members will vote until there is a majority vote (half the vote). Voting must be carried out according to the council's Standing Orders (para. 8) thus:

1. **Members shall vote by a show of hands DOES THE COUNCIL WANT THIS in accordance with the council's Standing Orders. REMOVE**
2. Where more than two persons have put themselves forward for co-option, and there is not an absolute majority (ii) 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. **Standing Order 8a.ADD**
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 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. **REMOVE ?**

Unsuccessful candidates are welcome to stay for the remainder of the meeting as a member of the public.

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iRule 5(2) of The Local Elections (Parishes and Communities)(England and Wales) Rules 2006 allows ten electors for the parish in which the casual vacancy has arisen to request the Returning Officer to hold an election to fill the vacancy. The request must be made within fourteen days of the public notice of the vacancy.

ii An absolute majority is defined as more than half of the available votes **ADD**