

Bradwell with Pattiswick Parish Council

Procedure for Co-option of a Councillor to fill a casual vacancy on the Parish Council

| | |
|-------------------------|--|
| Version | 3.0 |
| Issue date | 12 th September 2022 |
| Author | Parish Clerk & Responsible Financial Officer |
| Reviewed by | Parish Councillors |
| Adopted | |
| Minute | |
| Next review date | August 2024 |

Contents

| | |
|--------------------------------------|---|
| What is a vacancy? | 3 |
| Public notice of vacancies | 3 |
| Eligibility for co-option..... | 3 |
| Qualifications for election..... | 4 |
| Disqualifications for election | 4 |
| The Process | 4 |
| The Candidate | 5 |
| The Decision..... | 6 |
| Person specification | 7 |

What is a vacancy?

A casual vacancy is deemed to have occurred on Bradwell with Pattiswick Parish Council as follows:

- When a councillor fails to make the declaration of acceptance of office within the proper time
- When a notice of resignation is received
- On the day of his/her death
- In the case of disqualification under the Audit Commission Act 1988 or under the Local Government Act 2000, s79, or by a conviction on the day when either the time for appeal or application for relief expires, or such appeal or application is dismissed or abandoned
- In the case of an election being declared void, upon the date of the report or certificate of the election court
- Where a person ceases to be qualified, or becomes disqualified for any reason other than conviction or order, or is persistently absent from meetings, upon the date when the office is declared vacant by the High Court or council as the case may be
- When insufficient councillors are elected at a properly constituted local election

The Clerk will declare that such a vacancy exists without recourse to a meeting of the Parish Council or committee.

Public notice of vacancies

s.87(2) of the Local Government Act 1972 ("the 1972 Act") requires The Parish Council to give public notice of casual vacancies. (Note: There is no statutory requirement to give public notice of vacancies which remain unfilled after an ordinary election (s.21(2) Representation of the People Act 1985). However, the Parish Council may decide to give public notice of vacancies which arise in both circumstances to encourage transparency and to attract more candidates.

Eligibility for co-option

A person is eligible to be co-opted provided he is qualified to be a councillor pursuant to s.79 of the 1972 Act and is not disqualified pursuant to s.80 of the 1972 Act. Applicants will be required to declare that they:

- meet the criteria for eligibility, set out in s.79 of the 1972 Act, to be a member of the council, and
- are not disqualified, pursuant to s.80 of the 1972 Act, to be a member of the council.

(The council may need to investigate or obtain evidence about a candidate's eligibility to be a councillor if this is challenged.)

If no applications are received by the deadline date, the Council may agree to extend that period. If after that extension no applications are forthcoming, the full Council may invite applications from named individuals, but the application process will be followed.

Qualifications for election

S.79(1) of the Local Government Act 1972 provides that a person is qualified to be a councillor if he is a qualifying Commonwealth citizen or an EU citizen and is over 18 years of age:

- on the day of application or nomination he is and thereafter he continues to be a local government elector, or
- has during the whole of the 12 months preceding that day occupied as owner or tenant any land or other premises in the parish or within 3 miles of the parish boundary, or
- his principal or only place of work during the 12 months preceding that day has been in the parish, or
- he has during the whole of the 12 months preceding that day resided in the parish

Disqualifications for election

In accordance with s.80 of the Local Government Act 1972, a person is disqualified from being elected or being a councillor if he:

- holds any paid office or employment (other than the office of chairman or vice-chairman) to which he has been appointed by the council, or
- is the subject of a bankruptcy restrictions order, an interim bankruptcy restrictions order, a debt relief restrictions order or an interim debt relief restrictions order under schedule 4ZB of the Insolvency Act 1986, or
- has within five years before the day of election, or since his election, been convicted of any offence and sentenced to a term of imprisonment of at least three months (whether suspended or not) without the option of a fine, or
- has been found guilty of corrupt or illegal practices, or was responsible for incurring unlawful expenditure and court orders his disqualification.

The Process

1. The Clerk will notify the Electoral Services Officer at Braintree District Council and will publicly display a Notice of Vacancy. In the case of a casual vacancy occurring due to death, the notice may be delayed for a respectful period.
2. If a casual vacancy arises within six months to the day when the councillor whose office is declared vacant would ordinarily have retired, then no by-election may be demanded. As the Parish Council is permitted to either advertise the vacancy for co-option or to leave the office vacant until the date

of the next ordinary election, the Parish Council will be asked at its next suitable meeting which option it wishes to pursue.

3. If, in the period of time required by legislation following the publication of the Notice of Vacancy (currently 14 working days), the Returning Officer at Braintree District Council received 10 letters from electors claiming a by-election, the election process will commence and a by-election will take place within 60 days of the notice of vacancy. Braintree District Council will make all the necessary arrangements for such a by-election.
4. If the Returning Officer does not receive 10 letters from electors calling for an election to be held, then the co-option procedure will commence with step 6.
5. It is required that the vacancy be filled as soon as practicable after the expiry of the notice period in step 4 above and the Clerk will normally invoke this procedure without further recourse to a meeting of the Parish Council or committee.
6. The vacancy to be filled by co-option will be advertised on the Parish Council notice boards and on the Parish Council's website (and/or other local media deemed appropriate) within 21 days of the end of the time for the notice period in step 4 above. The co-option advertisement notice will give interested parties 14 working days to notify the Parish Council that they wish to be considered for co-option.

The Candidate

1. All candidates will be required to put their request for consideration in writing with a personal summary, which may include: reasons for wishing to be a councillor, previous community/council work, any other skills they can bring to the Council, their interests and recent career history on the appropriate application form, available from the Clerk. The candidate must also confirm their eligibility for the position of councillor within the statutory rules.
2. Any candidate found to be offering inducements of any kind to members or officers of the Parish Council will be disqualified without further discussion and notified accordingly.
3. Following expiry of the advertisement notice period, the Clerk will provide a confidential summary of the applications to the Parish Councillors to enable consideration at the next suitable meeting of the Parish Council. If a candidate is a family member or known business associate where a personal interest may need to be declared, the Clerk will request that a formal Declaration of Interest is made at the meeting where candidates will be discussed and voted upon.
4. The Clerk will invite all eligible candidates to the meeting where co-option is an agenda item and candidates will be expected to make every effort to attend the meeting at which the Parish Council proposes to appoint the co-opted

member. All candidates will be furnished with a full agenda of the meeting at which they are to be considered for appointment.

The Decision

1. Discussion about the applications will take place in Council session without intervention from the candidates or attending public or any person making a declaration under 10 above. Any questions to be asked of a candidate will be asked through the Chair of the session.
2. Following discussion, a vote will be taken by signed ballot and all candidates will be considered.
3. If there is more than one candidate, the candidate with the least number of votes cast will be deleted and the vote taken again until the number of candidates equal the number of vacancies. The successful candidate/s must have received a majority vote of those present and voting.
4. The successful candidate/s will be appointed and sign their Declaration of Acceptance of Office and can then act as a councillor in line with normal election procedures.
5. The newly appointed councillor will be provided with an induction pack to include the Code of Conduct, Standing Orders and Financial Regulations of the Council (copies of which are also available on the Parish Council website).
6. The Register of Interest must be completed within 28 days and a copy submitted to the Monitoring Officer at Braintree District Council.
7. The Parish Council reserves the right not to make a co-option if they consider a suitable candidate has not been found.

Person specification

| COMPETENCY | ESSENTIAL | DESIRABLE (but not essential as training will be available) |
|--|--|---|
| Relevant knowledge, Education, Professional Qualifications & Training | <ul style="list-style-type: none"> • Sound knowledge and understanding of local affairs and the local community. • <i>Other requirements</i> as appropriate | <ul style="list-style-type: none"> • <i>Specific Vocational training or professional qualification (e.g. accountant, teacher, surveyor, architect) may be specified.</i> |
| Experience, Skills, Knowledge and Ability | <ul style="list-style-type: none"> • Solid interest in local matters. • Ability and willingness to represent the Council and their community. • Good interpersonal skills. • Ability to communicate clearly both orally and in writing. • Ability and willingness to work closely with other members and to maintain good working relationships with all members and staff. • Good reading and analytic skills. • Ability and willingness to work with the council's partners (e.g. voluntary groups, other parish councils, principal authority, charities). • Ability and willingness to undertake relevant training. • Ability to work under pressure. | <ul style="list-style-type: none"> • Knowledge of HR, procurement, contract management, financial control or risk management and compliance, public relations • Experience of working in another public body or not for profit organisation • Experience of working with voluntary and or local community/interest groups. • Basic knowledge of legal issues relating to town and parish councils or local authorities. • Experience of delivering presentations. • Experience in financial control/budgeting |
| Other requirements | <ul style="list-style-type: none"> • Ability and willingness to attend meetings of the council (or the meetings of other local authorities and local bodies) in the evening and events as required • Flexible • Enthusiastic. | |