

DARTFORD BOROUGH COUNCIL

PROCEDURE FOR FILLING PARISH/TOWN COUNCILLOR VACANCIES FOLLOWING AN ORDINARY ELECTION

1. This Procedure deals with situations where parish/town councillor vacancies remain unfilled following an ordinary election of parish/town councillors.
2. The general aim of the Borough Council in taking steps to fill any remaining parish/town councillor vacancies is to ensure that vacancies are filled promptly, to facilitate the proper functioning of the relevant Parish/Town Council and to reduce the possibility of the Parish/Town Council not being able to form a quorum at some point in the future.
3. Parish/Town Council membership must comprise at least five [5] parish/town councillors¹ - there is no maximum number. A quorum for meetings of the Parish/Town Council is one third of the Parish/Town Council's membership, but not less than three councillors² present at a meeting.
4. The Proper Officer for any decisions of the Borough Council arising from this Procedure will be the Chief Officer and Director of Corporate Services.
5. If a Parish/Town Council considers that parish/town councillor vacancies are (or are likely to) cause difficulties in the Parish/Town Council's proper functioning and decision making processes, then the Proper Officer may, on request, consider other steps or measures to deal with such situations³, which may include:
 - (i) directing that an election should be held on a date which it sees fit⁴; or
 - (ii) by Order⁵, appointing persons on a temporary basis to fill all or any of the vacancies, until Parish/Town Councillors are elected and take up office.

6. VACANCIES WITH A QUORUM RETURNED AT AN ORDINARY ELECTION

6.1 Co-option within six [6] calendar months of the date of the ordinary election

- (a) Providing a quorum has been returned, the Parish/Town Council will make reasonable attempts to fill remaining parish/town councillor vacancies by co-option (without the need to advertise the vacancies⁶), within a period of six [6] calendar months from the date of the ordinary election.
- (b) The Parish/Town Clerk will promptly notify the Proper Officer of vacancies filled or not filled as the case may be.
- (c) The Proper Officer will not take steps to fill parish/town councillor vacancies for a period of six [6] calendar months from the date of the ordinary election, unless asked to do so by the Parish/Town Council.

¹ Section 16 Local Government Act 1972 (as amended)

² Paragraph 12 of Part II of Schedule 12 to the Local Government Act 1972 (as amended)

³ Section 39(4) Representation of the People Act 1985 (as amended)

⁴The Returning Officer will decide the date of the election which must fall within 60 days from the date of the notice of vacancy

⁵ Section 91(1) Local Government Act 1972 (as amended)

⁶ Section 39(4) Representation of the People Act 1985 (as amended)

6.2 Unfilled vacancies six [6] calendar months after the date of the ordinary election

(a) Section 89(6) of the Local Government Act 1972 (as amended), states that a casual vacancy (i.e. a vacancy requiring a by-election) among parish councillors is to be filled by election or by the parish council in accordance with rules under section 36 of the Representation of the People Act 1983.

Section 87(2) Local Government Act 1972 (as amended) does not include any provision to combine several vacancies in a single notice. Therefore, each resignation, death, etc., that occurs, will need its own notice relating to that particular circumstance.

Action: The Parish/Town Clerk will publish an individual notice of vacancy for each unfilled seat on the Parish/Town Council, under copy to the Electoral Services Manager.

(b) A by-election to fill each vacant seat will only held if it is requested by ten [10] eligible local electors. This request must be made to the Proper Officer, within 14 days of the Parish/Town Council giving public notice of each vacancy. The by-election will be held within sixty [60] days of the public notice of vacancy for each unfilled seat.

Action: If a valid election request to fill each vacant seat is made to the Proper Officer, a by-election will be conducted by the Returning Officer for the unfilled seats.

(c) If no request is received by the Proper Officer for a by-election in accordance with section 6.2(b) above:

Action: The Parish/Town Council must, as soon as practicable after the expiry of the period of 14 days from the date of the notice, co-opt persons to fill the vacancies and notify the Proper Officer of the vacancies filled or not filled as the case may be.

(d) In the event the Parish/Town Council becomes inquorate, the Procedure for Making Appointments to Inquorate Parish/Town Councils, under Section 91(1) of the Local Government Act 1972 (as amended) and Section 39(4) of the Representation of the People Act 1983 (as amended), will apply.

7. VACANCIES AND NO QUORUM RETURNED AT AN ORDINARY ELECTION

7.1 Following the close of nominations for an ordinary election, insufficient nominations received to make the Parish/Town Council quorate

- (a) Validly nominated candidates are declared elected at the close of withdrawals⁷ and take office four [4] days after the date set for the ordinary election.
- (b) If sufficient nominations are received to fill the vacancies, the Returning Officer will declare the election uncontested or hold an election, if the number of nominations received exceeds the vacancies.
- (c) If the Returning Officer fails to receive a sufficient number of nominations, he/she will order a new election to be held within 35 days (excluding dies non⁸), beginning with the day fixed as the original day of the election.
- (d) If after two election re-runs, in-sufficient nominations are received, the Proper Officer in consultation with Group Leaders, will make temporary appointments to the Parish/Town Council in accordance with the Procedure for Making Appointments to Inquorate

⁷ Vacancies exceed nominations and the election becomes uncontested

⁸ A day on which no legal business can be done, or which does not count for legal purposes

Parish/Town Councils, under Section 91(1) of the Local Government Act 1972 (as amended) and Section 39(4) of the Representation of the People Act 1983 (as amended).

8. **VACANCIES WITHIN SIX [6] MONTHS OF THE NEXT ORDINARY ELECTION (PARISH/TOWN COUNCIL QUORATE)**

If a parish/town casual vacancies occur within six [6] months of the next ordinary election, when parish/town councillors would have retired, and the Parish/Town Council is quorate, no election is required to be held. Casual vacancies occurring within six months of an ordinary election can remain unfilled. The Parish/Town Council may co-opt to fill the vacancies.

9. **VACANCIES WITHIN SIX [6] MONTHS OF THE NEXT ORDINARY ELECTION (PARISH/TOWN COUNCIL INQUORATE)**

If a parish/town casual vacancies occur within six [6] months of the next ordinary election, when parish/town councillors would have retired, and the Parish/Town Council is inquorate, the process in section 6.2 will apply.