

## Co-opting Councillors Following the Local Elections Held on 6 May 2021

Following the close of nominations on 8 April 2021 for the local elections in May, there are 124 parish and town councils in Northamptonshire (out of 205 up for election) that have fewer candidates than there are seats available. On 6 May 2021, candidates that have put themselves forward for election will be declared automatically elected, and there will be one or more vacancies to fill following the election. This guidance note applies to those 124 councils.

Subject to being quorate, the law requires that the council fills the vacancies by co-option. The process is broadly similar to the process for filling casual vacancies (which normally occur on the death or resignation of a councillor), but there are two important differences when the vacancies arise due to insufficient nominations for election.

Firstly, the council is not required to give notice of the vacancies, so there is no statutory period for allowing the electorate to demand a bye-election. The council can proceed straight to co-option. Although there is no requirement to give statutory notice of the vacancies, an advertisement promoting the opportunity to join the council should be widely publicised to attract expressions of interest.

Secondly, the law requires that the vacancies be filled within 35 days of the day of the election, excluding Saturdays, Sundays, bank holidays and days of public thanksgiving or mourning. For this year, the 35-day period ends on 25 June 2021 (assuming no days of public mourning occur!).

The vacancies cannot be filled until after the candidates that are declared automatically elected come into office, which is on 10 May 2021.

Therefore, the vacancies arising due to insufficient nominations for election must be filled at a meeting, or meetings, of the council held between 10 May 2021 and 25 June 2021 inclusive.

If the council fails to fill the vacancies by 25 June 2021, then the relevant principal council (North Northamptonshire Council or West Northamptonshire Council) has powers to take steps to ensure that the vacancies are filled, including ordering a new election. In practice the unitary council is unlikely to exercise the power if the council can demonstrate that it is using best endeavours to fill the vacancies. Proceeding urgently with co-options is very important because, if the principal council does order a new election, the full cost would be transferred to the parish council as the poll would not be combined with any other elections (as it is on 6 May 2021).

### Publicising the Vacancies

There is no statutory notice and no prescribed format for the notice. The notice should be upbeat and positive and should avoid using local government jargon wherever possible. A sample notice is available from the Northants CALC web site (choose [editable Word version](#), or [PDF version](#)).

**Co-option**  
*is the process of adding members to the council on the vote of the existing members of the council.*

## Procedure for Co-option

A council meeting must be held between 10 May 2021 and 25 June 2021 inclusive with an item on the agenda such as “*To fill a vacancy/vacancies on the council by co-option*”. At that item, the chairman may invite candidates for co-option to say a few words about themselves and why they want to join the council. It is a good idea to allocate a set time for this purpose, e.g., three minutes per candidate. Some candidates will use a fraction of that; others will use it all!

Candidates must be proposed and, if Standing Orders require it (which is almost always the case), seconded. The chairman asks councillors present to propose and second candidates, and a list of those candidates is recorded in alphabetical order. This process must be followed even where the number of candidates is equal to or less than the number of vacancies.

Voting is by show of hands unless the council has adopted Standing Orders which allow any other form of voting in council. If the number of candidates is equal to or less than the number of vacancies, then all the vacancies can be filled with a composite vote. Where there are more candidates than vacancies, each vacancy is taken in turn, and each councillor present and voting has one vote per vacancy.

A candidate must secure an absolute majority of votes to be co-opted. Should no single candidate receive an absolute majority on the first round of voting, the person with the lowest number of votes is eliminated. A second round of voting then takes place with the remaining candidates, and again, each councillor has one vote. This process continues until one person receives an absolute majority.

The successful candidate is then declared co-opted to the council. The newly co-opted candidate cannot take part in the remaining business on the agenda since they will not have been properly summonsed to attend that meeting. They will begin acting as a councillor from the council’s next meeting. At or before that meeting, they must sign a Declaration of Acceptance of Office.

## Some Voting Examples

1. There is one vacancy and there are three candidates, A, B & C. Eight councillors are present and voting. In the first round of voting the votes cast are A-4, B-3, C-1. No candidate has secured an absolute majority (5 votes). Candidate C is eliminated. A second round of voting takes place, and the votes cast are A5, B3. Candidate A is declared co-opted.
2. There is one vacancy and there are three candidates, A, B, & C. Eight councillors are present and voting. In the first round of voting the votes cast are A-4, B-2, C-2. No candidate has secured an absolute majority (5 votes). The chairman asks Candidates B and C if either of them wishes to withdraw. Neither candidate withdraws, so a second round of voting takes place, and the votes cast are as before A-4, B-2, C-2. The chairman may then ask for a vote between Candidates B and C. The votes cast are B-5, C3. Candidate C is eliminated. Another round of voting then takes place between Candidate A and B, and the votes cast are A5, B3. Candidate A is declared co-opted.
3. There are two vacancies and three candidates, A, B, & C. Seven councillors are present and voting. In the first round of voting the votes cast are A-2, B-4, C-1. Candidate B has achieved an absolute majority (4) and is declared co-opted to the first vacancy. Now there is one remaining vacancy and two candidates. Another round of voting takes place and the votes cast are A-2, C-5. Candidate C has achieved an absolute majority and is declared co-opted to the second vacancy.

Voting on co-options can be a lengthy and complicated process. The council should take its time and make sure the process is methodical and transparent. The chairman needs to be sharp and should consult the clerk throughout the process. The outcome of votes should be carefully recorded; the important thing is that the will of the council is clearly determined. If your council knows the number of vacancies and the likely number of candidates in advance of the meeting and wishes to talk through potential voting scenarios then please contact Danny Moody ([dmoody@northantscalc.com](mailto:dmoody@northantscalc.com)) or Lesley Sambrook Smith ([lsambrooksmith@northantscalc.com](mailto:lsambrooksmith@northantscalc.com)).

## Frequently Asked Questions

**Q1: When can we start to publicise the vacancies?**

**A1:** Publicity can start as soon as you know that you have vacancies. The vacancies cannot be filled until on or after 10 May 2021, but publicising the vacancies can start whenever.

**Q2: Why do we have to fill the vacancies?**

**A2:** It is required by law. Section 21 of the Representation of the People Act 1985 ([see text](#)) requires that the vacancies be filled within 35 computed days of the day of election.

**Q3: Do candidates for co-option have to express an interest before the meeting at which they are co-opted?**

**A3:** No, but it is useful if they do so that you can start thinking through the various scenarios for voting. A candidate can materialise on the night, and if they are proposed and seconded then they should be included in the list of candidates.

**Q4: Can we exclude the candidates and any members of the public and press whilst co-opting? The councillors do not want the candidates to know how they voted.**

**A4:** The sensitivity is understood, but there is no lawful basis for excluding the candidates and any members of the public and press before voting on co-options.

**Q5: What information should candidates be given before the council meeting at which they are co-opted?**

**A5:** There is no requirement to provide information, but it is useful to direct candidates to the council's web site and to furnish them with a PDF copy of the Good Councillor's Guide, which is an accessible guide to being a councillor. A copy is available to download at <https://www.northantscalc.com/uploads/the-good-councillors-guide-2018-18.pdf>.

This guide provides general information on filling vacancies by co-option following insufficient nominations for election. Every council is different though, so if you would like to discuss your council's specific situation please contact Danny Moody ([dmoody@northantscalc.com](mailto:dmoody@northantscalc.com)) or Lesley Sambrook Smith ([lsambrooksmith@northantscalc.com](mailto:lsambrooksmith@northantscalc.com)).

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