



# MEDSTEAD PARISH COUNCIL

## VACANCIES AND CO-OPTION POLICY

### 1. Introduction

This policy gives guidance on how Medstead Parish Council can fill vacancies that arise through a range of circumstances. When co-option is required, it outlines the process to be followed.

### 2. Types of Vacancies

Vacancies can arise either as a casual vacancy or at an election if the number of candidates nominated for the election is less than the number of available seats on the Council. The procedures for filling the vacancy differ in each case.

### 3. Casual Vacancies

Casual Vacancies can arise for the following reasons:

- Councillor resignation
- Non-attendance of meetings
- Death
- Failure to deliver an Acceptance of Office Form
- Councillor disqualification for various other reasons

#### 3.1 Councillor Resignation

A Councillor may resign from their position at any time by written notice which should be delivered to the Chairman. The resignation takes immediate effect and once a resignation has been made, there is no procedure for its withdrawal.

If the Chairman resigns, he must notify the whole Council in writing. The Vice Chair will assume the role of Chairman until a new Chairman is elected, which must be the first point of business at the next Council meeting.

If so many Councillors resign at once that the Council is not quorate, it will need to contact EHDC (or Unitary Authority in future) for them to intervene and appoint councillors by order or arrange an election as co-option will not be possible.

#### 3.2 Failure to attend meetings

A Councillor will be deemed to have vacated their seat if they are absent from all relevant Council meetings for six consecutive months without approval of any absences. For an absence to be approved, the Councillor must have sent written notice with reasons, which must be accepted by a resolution of the Council.

Relevant meetings are any of the following:

- A meeting of the council or any of its committees or sub-committees.
- A meeting of a joint committee, joint board or similar body by which any of the council's functions are for the time being discharged or which are advising the council on any matter relating to the discharge of its functions.
- A meeting of any body of persons at which the attendance of the councillor is as a representative of the council, e.g. HALC AGM.

The date of vacancy is when the Council rules on this period of absence, which would normally be the first Council meeting following the six month period.

### **3.3 Death**

In the event of death of a Councillor, the effective date of the vacancy is the day of death. However, it is customary to wait until after the funeral before the notice is published as a mark of respect.

### **3.4 Failure to deliver a signed Acceptance of Office form**

Upon commencing office, a Councillor must by law sign an Acceptance of Office Form in the presence of the Clerk or another Councillor. This should be delivered at the first meeting after election or co-option, or the Council could resolve to defer it to a later date. A vacancy is deemed to have occurred at the expiration of the time appointed for the delivery of the declaration. There is no provision allowing a declaration to be delivered retrospectively.

### **3.5 Disqualification**

There are a number of reasons for disqualification of a Councillor, detailed in i) the Local Government Act 1972, S80; ii) the Local Government Act 2000, S79; iii) the Localism Act 2011, S34, iv) The Elections Act 2022, S30 and v) The Local Government (Disqualification) Act 2022 .

There is no need to list all the reasons here, as the legislation can be consulted should the unlikely need arise.

Section 87(1) of the Local Government Act 1972 gives guidance for when the vacancy is deemed to occur for each reason for disqualification.

## **4. Notification Process for a Casual Vacancy**

Before a casual vacancy can be filled by co-option, the Council must follow a process that gives electorates the opportunity to request a by-election.

The Council must by law display a Notice of Vacancy as soon as is practicable after it has occurred on the noticeboards and website. The Council is also at liberty to advertise anywhere else it sees fit.

The Notice of Vacancy should have specific wording and should be sent to Electoral Services at EHDC (or the Unitary Authority in future) as soon as possible for them to give approval. The standard, previously agreed notice which is re-used each time is shown in Appendix 1. A by-election will be requested if ten electorates write to EHDC requesting one within a period of 14 days (excluding weekends, bank holidays, Christmas Eve, Christmas Day, Good Friday and any days appointed for public thanksgiving).

If a by-election is requested it will be held within 60 days of the date the Notice of Vacancy was first published. The Returning Office will normally contact the Clerk within a week of the deadline on the notice, but if they do not then the Clerk should chase it up and get the direction in writing. If a by-election has not been requested the Council is able to co-opt to fill the vacancy.

If a by-election is requested, the actual vacancy cannot thereafter be filled by co-option even if there are no candidates nominated.

If a by-election is not requested, the Council can continue to advertise the vacancy on its noticeboards and website and in whatever other way it chooses, to attract applicants for co-option although there is no legal obligation to do so.

There is no timescale by which the co-option should be completed. However, if the Council does not get any interest, it should promote the vacancy more actively rather than just passively waiting. The Council should remember that during any period without its seats filled, more workload is pushed onto the other Councillors, and there is greater risk of the Council being inquorate at any time.

Where a casual vacancy occurs in the last six months before an ordinary election, the Parish Council must still give notice to EHDC (or future Unitary Authority), but a by-election will not be held and so the notice giving electorates the opportunity to request one should not be issued. Instead, the Parish

Council may co-opt to fill the vacancy but this is not obligatory and it can choose to leave it vacant until the next election if preferred. If the Council chooses to go ahead with co-option, there is no legal obligation in these circumstances to advertise the vacancy but it is generally advisable that the Council should do so in order to attract candidates.

## **5. Vacancy at an Ordinary Election**

A vacancy will occur after an ordinary election if there are fewer nominees than seats, in which case those who have been validly nominated are automatically elected. This still counts as an election and so electorates do not have the opportunity to request a further by-election. The Council can proceed to fill the vacancy by co-option, provided that there are sufficient elected Councillors for it to be quorate.

In this situation, there is no statutory requirement to give public notice of vacancies but the Council will advertise the vacancies to attract applicants.

There is no absolute time limit by which co-option must occur, but if the vacancy is not filled within 35 days of the election, the principal authority has the right to intervene. They may make an order appointing temporary persons to the vacancies, or they may call another election. Therefore, the Council should strive to co-opt within 35 days of the date of an election. In reality, it is more likely that they will advise continuing to advertise the vacancies until the Parish Council is able to co-opt enough Councillors to fill those vacancies.

If the Council consistently cannot fill all its seats over a long period of time, it may request a Local Governance Review to consider reducing its number of seats.

If the number of councillors nominated and elected falls short of the quorum, the Council is not able to make any decisions and so cannot co-opt any further councillors. In this situation the principal authority must intervene.

## **6. The Co-option Process**

Whether co-option is needed following a casual vacancy or an ordinary election, the Council will use the same process. There is no legislation governing what the process should be so the Council has some discretion, but the process should be transparent, fair, without discrimination and consistent with standing orders.

### **6.1 Advertising**

Once the 14-day notice period has concluded, the Council can continue to advertise the vacancy however it wants, including on social media and newspapers. In the past the Council has advertised on its noticeboards and its website, Four Marks News and Medstead News Facebook pages, Four Marks News magazine and the Village Hall noticeboard.

There is no legislation preventing the individual Councillors directly approaching people who might be interested or sharing information about the role with those who approach them, but the process must be fair to all. The Clerk can provide information about the role and it is a good idea to suggest interested parties come to a Council meeting to see what is involved if the timings allow it.

### **6.2 Required skills and traits**

The Council can explicitly make clear what skills it is looking for if it has particular gaps to fill in collective skills and experience.

The Council will send all interested applicants an application form (in Appendix 2) allowing them to give information about themselves, to be shared with Councillors in advance. This is not a legal requirement, but will make it easier to compare applicants if they are all encouraged to give similar levels of information about themselves.

The Council may wish to give consideration to achieving a balanced council with regard to gender, age mix, working people vs retired people, skill mix, type of background, where people's interests lie etc, but factors such as age and gender should not lead to unfair criteria taken in isolation of applicant's merits.

### **6.3 Eligibility Criteria**

Councillors must meet a number of requirements in order to be eligible to become a Councillor, as laid down in the Local Government Act 1972. They also must not be disqualified from being a councillor.

The Clerk will send applicants a form on which they can check and tick off their eligibility criteria (in Appendix 3), so that the Council has proof it has made the right checks.

### **6.4 Selection Process**

In consultation with Council, the Clerk will put co-option on the agenda of a Council meeting at the earliest opportunity once the Council is satisfied that suitable people have put themselves forward. The completed application forms will be circulated with the agenda and they must be treated as private and confidential by Councillors.

The Council invites applicants to a Council meeting where the co-option will take place to speak for a maximum of five minutes to introduce themselves and talk about their interest in the council and experience. After this they may be asked to answer questions. This has worked well in the past but it is not a legal obligation. The Council does not have to invite all applicants to a face to face meeting but rather can short-list if it prefers, although it is generally advisable to hear all. It does not have to appoint anyone if it feels no candidates are suitable and can simply advertise again. An applicant can still be considered based on the information they have provided, even if they cannot attend the meeting.

NALC recommends that in the interests of transparency the whole process (including the voting) is done in an open meeting rather than a closed session. There are however disadvantages of this if all applicants are present throughout.

- The other applicants will be present when each of them is speaking. This potentially disadvantages the people that go early on and by the end the last person will have heard examples of questions, had time to think about their answers, or learnt things from other people's answers.
- It could deter people putting themselves forward if they feel uncomfortable speaking in front of other applicants.
- Councillors would be unable to freely discuss the applicants merits and personal characteristics
- Councillors may feel under pressure when voting, particularly if they know particular applicants or there are applicants who have applied multiple times.

There is a risk that in the interests of openness and transparency some elements of fairness get compromised. Applicants would not necessarily expect the process to be open as this is not what they would experience in a job interview, for example. Council can consider options if felt appropriate, such as keeping the meeting open to members of the public, should any be there, but mutually agree that the applicants leave the room during each other applicants turn. Council can then resolve to close the meeting during discussion and voting.

### **6.5 Voting**

NALC recommends that in the interests of transparency, voting should be by show of hands rather than secret ballot. Either way, it should be consistent with what Standing Orders say.

The Council's Standing Orders say in item 3(m) that "Unless standing orders provide otherwise, voting on a question shall be by a show of hands". No other option is specified anywhere in the document, so a ballot is precluded unless Standing Orders are changed.

The Local Government Act 1972 S39 stated before it was replaced that an applicant for co-option needed to receive an absolute majority of votes through iterative voting. Whilst that statutory rule does not seem to be duplicated in the subsequent legislation, it is still widely adopted by parish and town councils and appears to be the de facto methodology.

Medstead Parish Council's Standing Orders state: "Where more than two persons have been nominated for a position to be filled by the Council and none of those persons has received an absolute majority of votes in their favour, the name of the person having the least number of votes shall be struck off the list and a fresh vote taken. This process shall continue until a majority of votes is given in favour of one person. A tie in votes may be settled by the casting vote exercisable by the chairman of the meeting".

### **6.6 Communicating the outcome**

If the Council has decided to close the meeting for the voting then afterwards the applicants and any members of the public will be invited back in to deliver the outcome.

Whilst it can be potentially embarrassing to have the results shared in this way rather than privately at a later point, there is evidence that it is what most people prefer and it is also consistent with transparency of meetings. The Council has no power to consider the matter outside of the meeting or to revisit the decision once it has voted on, but to give the result after the meeting risks suggesting otherwise. Delivering the outcome at the meeting also gives applicants the chance to respond to anything the Council says, and it allows the new Councillor to come on board immediately, to be welcomed by the Councillor and to participate in the rest of the meeting. This is far preferable to becoming a Councillor but then having to wait a further month to be involved.

The Clerk will take a blank Acceptance of Office form to the meeting to be signed immediately before the new Councillor joins the remainder of the meeting, in line with legal requirements.

### **6.7 Induction for new Councillors**

The Clerk has a compilation of useful documents to send to new Councillors, including the Standing Orders, Financial Regulations, Code of Conduct and the Good Councillor guide series of documents. The Clerk will add to the collection of useful information when things are updated or new useful material is found. The Clerk will also point new Councillors to useful material on the website, such as past minutes and make time available as required to meet with or phone new Councillors to answer any questions they have.

### **6.8 Feedback on the process**

New Councillors will be asked for their feedback on the induction process, which will be used to help determine whether at any point this policy needs reviewing.



## MEDSTEAD PARISH COUNCIL

### CASUAL VACANCY FOR A COUNCILLOR

1. There is currently a vacancy on the above Council.
2. A by-election to fill this Vacancy will be held if, **within 14 days of the date of this notice**, (not counting a Saturday or Sunday, Christmas Eve, Christmas Day, Good Friday, Bank holidays, any day appointed for public thanksgiving) from the date stated below, ten electors for the Parish give notice in writing claiming such an election to the Returning Officer.
3. The address of the Returning Officer is:  
  
**Electoral Services Officer, East Hampshire District Council, PO Box 310, Petersfield, GU32 9HN.**
4. If no such notice is given Medstead Parish Council will fill the vacancy by co-option.

Dated: XXXX

Signed by the Clerk:

Address: Medstead Parish Council, Medstead Parish Office, Roe Downs Road, Medstead,  
GU34 5LG

Email: [clerk@medsteadpc.org](mailto:clerk@medsteadpc.org) Tel: 07711 107378

**Appendix 2**

**MEDSTEAD PARISH COUNCIL  
Co-option Application Form**

<b>PERSONAL DETAILS - (Block Capitals please)</b>	
<b>Name:</b>	
<b>Address:</b>	
<b>Telephone or Mobile Number:</b>	
<b>Email address:</b>	

**If NOT resident in Medstead please confirm the address for qualification in Appendix 2 Section 1 Eligibility**

<b>Address:</b>

**Is there any other information you would like to disclose regarding your application?** (e.g. if you are related to an employee of the Council / would require assistance during Council meetings with your mobility, hearing or vision).

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**Signature .....** **Date.....**

<b>For verification by Parish Clerk</b> Electoral Roll No.
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**Please return your completed form, written summary and the Co-option Eligibility Form to:**  
Parish Clerk, Medstead Parish Council  
Parish Office, Roe Downs Road.  
Medstead,  
GU34 5LG  
Tel: 07711 107378 Email: clerk@medsteadpc.org

**Please detail any experience you have that may be relevant to Medstead Parish Council and any reasons for applying you would like to share (if necessary, please continue using a separate sheet of paper).**

## Appendix 3

### MEDSTEAD PARISH COUNCIL Co-option Eligibility Form

1. In order to be eligible for co-option as a Medstead Parish Councillor you must be a British subject, or a citizen of the Commonwealth or the European Union; and be 18 years of age or over on the 'relevant date' (i.e. the day on which you are nominated or if there is a poll the day of the election). You must additionally be able to meet **one** of the following qualifications (**Please tick those that apply**):

- I am registered as a local government elector for the parish of Medstead; **or**
- I have, during the whole of the twelve months preceding the date of my co-option, occupied as owner or tenant, land or other premises in the parish of Medstead; **or**
- My principal or only place of work during those twelve months has been in the parish of Medstead; **or**
- I have during the whole of twelve months resided within 3 miles of the parish of Medstead.

2. Please note that under Section 80 of the Local Government Act 1972 or a person is disqualified from being elected as a Local Councillor or being a member of a Local Council if he/she:

- a) Holds any paid office or employment of the parish council (other than the office of Chair) or of a joint committee on which the Council is represented; or
- b) Is a person who has been adjudged bankrupt or has made a composition or arrangement with his/her creditors\* (but see below); or
- c) 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
- d) Is otherwise disqualified under Part III of the representation of the People Act 1983 for corrupt or illegal practices. or
- e) Is on the register for sexual offenders

\*The disqualification for bankruptcy ceases in the following circumstances: -

- i) if the bankruptcy is annulled on the grounds that either the person ought not to have been 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 misfortune without misconduct on his/her part;
- iii) if the person is discharged without such a certificate.

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

I (**insert name**) ..... hereby confirm,

that I am eligible to apply for the vacancy of Medstead Parish Councillor, and the information given on this form is a true and accurate record.

Signed ..... Dated .....