



# NORTH HYKEHAM TOWN COUNCIL

## Councillor Vacancies Policy

### 1. Policy Statement

North Hykeham Town Council endeavors to fill any Councillor vacancy, as they arise, and will give public notice of vacancies at the earliest opportunity.

### 2. The Law

- Section 87(2) of the Local Government Act 1972 requires a local council to give public notice of casual vacancies.
- There is no statutory requirement to give public notice of local council vacancies which remain unfilled after an ordinary election (S. 21(2) Representation of the People Act 1985) – although considered good practice to do so.

Candidates:

- Need to meet the criteria for eligibility, set out in Section 79 of the Local Government Act 1972 and
- Not be disqualified, as set out in S.80 of the Local Government Act 1972.

### 3. Eligibility

To be a Town Councillor, a candidate must be either:

- British;
- A Commonwealth National;
- A Citizen of the Irish Republic or European Union Citizen

**And**

Be 18 years of age or over, and on the day of election, or nomination, fulfills one or more of the following criteria:

- I. Being on and remaining on the register of electors for the Parish or,;
- II. During the whole of the twelve months preceding the nomination: - the candidate has lived in, or worked in the Town or lived within 3 miles of the Town boundary.

Where a candidate only fulfills criteria (I) above and then subsequently comes off the register of electors, their qualification lapses.

The other qualifications at point (II) remain valid for the four year term. Consequently, if a successful candidate leaves the parish, during the term, they are not required to resign, although it might be considered appropriate to do so.

#### 4. Disqualification

Reasons include:

- Bankruptcy, being employed by or doing paid work for the Council (except as a contractor), a criminal conviction with a prison sentence of three months or more, illegal expenditure, or being found guilty of corrupt or illegal practices in election law.

#### 5. Resignation

A Councillor may resign by giving written notice, addressed and delivered to the Chairman of the Town Council (S.84). The Chairman must accept the resignation and there is no legal procedure for withdrawing a notice of resignation, once delivered and accepted. The Chairman gives written notice to the council, via the Clerk.

Resignation takes effect, upon receipt, and cannot be post-dated (to a later date).

#### 6. Other Reasons For A Vacancy Occurring

- Death;
- Failure to sign a Declaration of Acceptance of Office;
- Failure to attend meetings (e.g. for 6 months and reason for absence not accepted)

#### 7. Procedure for Filling Casual Vacancies

Where a vacancy arises as a result of:

- A Councillor resignation;
- Disqualification or failure to remain qualified;
- Death.

The process to fill the vacancy is as follows:

- a) The Town Clerk must make arrangements to notify the Returning Officer at North Kesteven District Council of the vacancy; **Then, either:**
- b) NKDC send the council a notice to display informing the residents about the vacancy. The notice will run for 14 days (excluding weekends and bank holidays) from the date it is displayed on the Town Council notice boards, (and Council website, newsletter, as appropriate) giving residents the opportunity to call for an election to fill the vacancy, during this period. **OR:**
- c) If the vacancy occurs within six months of the next scheduled elections, for the Town Council, there is no option to hold an election. The Town Council may fill the vacancy by co-option or the seat remains vacant.

#### 8. Calling A By-Election

During the 14 day period of public notice of the vacancy

- If 10 or more electors make a request, in writing, to the NK Returning Officer – then an election must be called (except if within 6 months of the scheduled election);
- The Returning Officer will:
  - Within 60 days of the date of the vacancy notice, set a date for the election;
  - Display notices announcing the election and explaining how to apply to be a candidate for election;
  - Those nominated are elected
  - Call a further election if there are not enough nominated candidates; Co-option is not an option.

## 9. A By-Election Is Not Called

If this occurs, the Returning Officer will notify the Town Council and the vacancy should be filled, by co-option as soon as practicable.

## 10. Vacancies After An Ordinary Town Council Election (Every 4 Years)

Where fewer valid nominations are received, for any ward with the Town Council boundaries, at the four yearly elections, all the valid nominees will be declared elected.

If following the election, enough Councillors are elected to form a quorum (e.g. 7 Councillors), the Town Council should seek to fill the remaining vacant seats, by co-option as soon as possible. Should the Council fail to fill the vacant seats **within 35 days** (excluding bank holidays and weekends) or there are not enough Councillors to form a quorum, then North Kesteven District Council may order another election.

## 11. Co-option

The co-option process is not prescribed in law. However, examples of best practice are available from the National Association of Local Councils, County Associations and from District Councils.

The Town Council will:

- Advertise the vacancy/(ies) on their notice boards, on their website and via other publicity, as appropriate.
- Include relevant details in the advert/notice – **see Appendix 1**: e.g. Town Clerk contact details, the eligibility criteria, closing date for all expressions of interest, the date on which the Town Council intends to make a decision, the ward for the vacancy/(ies),
- Candidates will be asked to complete and supply a detailed report stating their background and their reasons for wishing to serve on the council along with any further information, they wish to give.

The Council (or parishioner) can legally approach individuals to discuss the role as a Councillor and to suggest they may wish to consider putting their names forward for co-option.

## 12. Co-option Application Process

- The Town Clerk will review all applications received and check the applicants meet the qualification requirements and have supplied reasons for applying/background;
- These details will be circulated to Elected Councillors, before the meeting at which the decision will be made.
- Candidates will be informed of the date of the meeting at which the Council will make its decision on the co-option.

## 13. Co-option Meeting

Notice of the intention to co-opt will be shown as an agenda item for the Town Council meeting. Candidates may also be invited to the meeting to introduce their self and to provide an opportunity for Councillors to ask them questions. The Council also retains the right to only consider written submissions.

#### 14. Co-option Voting Process

- Where there are fewer candidates than vacancies:
  - The Council may pass a motion, duly proposed and seconded, that all candidates be co-opted.
- Where there are more candidates than vacancies – **guidance is provided in Arnold Baker on Local Council Administration 10<sup>th</sup> edition pg 49 - 50:**
  - Councillors present at the meeting, will take a vote by means of a signed ballot;
  - Where there are 2 or more candidates for 1 vacancy and not one of them at the first count receives a majority, the candidate with the fewest votes will be excluded and the remainder put to the vote again. The process should be repeated, as necessary, until one candidate has an overall majority;
  - If two candidates poll the same number of votes, a separate vote to eliminate one of them, will be held;
  - Each vacancy should be filled by a separate vote or series of votes until the number of candidates match the number of vacancies.

#### 15. After The Vote

- The Town Clerk will notify the candidates of the results by telephone and email, as soon as reasonably practicable and this is not the duty of any Elected Member;
- Successful co-opted candidates become Councillors in their own right and they must:
  - Sign a Declaration of Acceptance of Office and
  - Complete and return a 'Register of Interests Form at their first meeting or within 28 calendar days of election, whichever is the sooner;
  - Be given a copy of the Council's Code of Conduct.
- Their term of office runs until the next normal four yearly election for the Council.

#### 16. Further Reading:

- National Association of Local Council's – Legal Topic Note 8 on 'Elections'
- Arnold-Baker on Local Council Administration – 10<sup>th</sup> Edition
- NALC – Legal Briefing L15-08 (May 2015)



*'Committed to Improving the Quality of Life in North Hykeham'*

## North Hykeham Town Council

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### **VACANCY FOR A COUNCILLOR XXXXX WARD**

There is currently a vacancy on the Council, for the **XXXXXXXX** Ward and having been through the prescribed procedure, no election has been requested.

The vacancy will therefore be filled by the co-option process at a meeting of the Town Council on **DAY MONTH, YEAR.**

Unless otherwise disqualified, a person is qualified to be co-opted as a local Councillor if they are either:

- British **or**
- A Commonwealth National **or**
- An Irish or European Union citizen

And aged 18 years or over and on the day of their selection:

- Currently live and have lived in the Town, or within 3 miles of the boundary, during the last 12 months; **or**
- Are currently a local government elector and will continue to be; **or**
- Have worked in the Town during the last 12 months.

Should anyone wish to be considered for this vacancy they should apply, in writing to the **Acting Town Clerk**, at the above address stating: their reasons for wishing to serve on the Council along with some details about their background -

**By DAY, MONTH, YEAR**

Mrs S Green  
Acting Town Clerk to the Council  
17 July 2017