

POLICY AND PROCEDURES ON FILLING VACANCIES

Approved by Council on 10 January 2023 with effect from 1 March 2023.

Introduction

1. This document sets out Hughenden Parish Council's policies and procedures for filling vacancies on the Council. These policies and procedures ensure compliance with the law and incorporate good practice.
2. An explanatory leaflet will be included as an Annex for anyone interested in becoming a councillor.

Underlying principles

3. The statutory requirements for filling vacancies are contained in a number of Acts and Regulations. The underlying intention of the law is that, **wherever practicable**: -
 - a) the electorate should decide who will represent it; and
 - b) the electorate should be fully represented.
4. This means that, when a vacancy occurs, electors are given the opportunity to call an election before co-option can go ahead.
5. It also means that vacancies should be filled as soon as possible. Councils should not delay filling vacancies nor leave vacancies unfilled when there are eligible candidates.
6. The principles for public life also apply.
7. This means the process should be objective with decisions taken impartially, fairly and on merit, without discrimination or bias. The process should also be open and transparent and Councils should hold themselves accountable for their decisions.
8. Hughenden Parish Council's policies and procedures not only comply with the law but are intended to uphold the law's underlying principles and the principles of public life.

Vacancies arising because insufficient candidates apply to be elected to HPC

9. The parish of Hughenden is divided into four wards - Hughenden Valley, Naphill and Walters' Ash, Widmer End and Great Kingshill.

10. Hughenden Parish Council has 15 seats on the Council – 4 for the ward of Hughenden Valley, 4 for the ward of Naphill and Walters' Ash, 4 for the ward for Widmer End and 3 for the ward of Great Kingshill.
11. When candidates apply for election to HPC, they are asked which ward they wish to represent.
12. Sometimes there are more candidates for a ward than there are seats. In that case, an election takes place and the candidates with the most votes are elected to represent that ward.
13. Sometimes there are the same number of candidates or fewer than there are seats. In this case, no election takes place and candidates are elected uncontested.
14. Where there are insufficient candidates and vacancies are left, Councils are able to co-opt eligible applicants onto the Council for these vacancies; essentially the law says the electorate has had the opportunity to fill the vacancies by election, that has not happened and so the vacancies can be filled by co-option.
15. Councils have no need to give public notice of these vacancies before it co-opts but as a matter of good practice, HPC will do so in the same way as it does for casual vacancies (see paragraph 26 below).

Vacancies arising between elections (casual vacancies)

16. Casual vacancies can arise between elections for a number of reasons: -
 - a) a Councillor fails to make their declaration of acceptance of office at the proper time
 - b) a Councillor resigns
 - c) a Councillor dies
 - d) a Councillor becomes disqualified
 - e) a Councillor fails for six months to attend meetings of the Council unless they have a 'statutory excuse' (broadly speaking, military service during war or an emergency) or the failure to attend is due to a reason approved by the Council.
17. If a casual vacancy arises, the Clerk will notify Buckinghamshire Council.
18. The Clerk will then advertise a Notice of a Vacancy giving electors the opportunity to call for a by-election. The Notice of a Vacancy will be posted on the Council's website and on the Council's noticeboards across the parish.
19. An election has to take place if 10 electors call for a by-election within 14 days of the Notice (not including weekends, public holidays and other notable days).

20. If an election is called, Buckinghamshire Council is responsible for managing the election process.
21. If only one candidate is nominated, they will be duly elected unopposed without a ballot.
22. If there are two or more candidates nominated, then a polling station will be set up in the ward by Buckinghamshire Council and the electorate of the ward will be asked to vote, either at the polling station or via postal vote.
23. HPC pays the costs of the election.
24. If 10 electors of the parish do not call for a by-election within 14 days, HPC's Clerk is notified by Buckinghamshire Council that the vacancy can be filled by co-option.
25. The Clerk then notifies the Council that an election has not been called. The Council must then fill that vacancy as soon as possible by co-option.
26. However, if the vacancy is within the six months period prior to an election, then the Council may, but does not need to, fill the vacancy. Even if the Council decides not to fill the vacancy, it still needs to give public notice of the vacancy.

Co-option

27. On receipt of written confirmation from Buckinghamshire Council that the casual vacancy can be filled by co-option, the following procedure will be followed. The same procedure will be followed when vacancies arise from too few candidates at the election.
28. The Clerk will: -
 - a) Advise the Council that the co-option process has been instigated;
 - b) Advertise the vacancy for four weeks on HPC notice boards and website; and
 - c) Promote the vacancy on social media platforms and any other relevant media and publications.
29. If the vacancy is as a result of the death of a Councillor, no advertisement will be posted until after the funeral.
30. The Council will ensure an open and transparent co-option process and engage as fully as possible to attract a diverse range of potential candidates. The process for

standing for co-option will be accessible and have due regard to equality and diversity.

31. The Council may indicate that people with specific skills and expertise are particularly welcome to apply. However this will not be part of the formal notice and people without those skills will still be eligible to apply.
32. People seeking to be co-opted will be asked to familiarise themselves with the Council's work before they apply. This will include attending a Council meeting to see how the Council conducts its business.
33. If the Council is not satisfied that the vacancy has been adequately advertised and a sufficient diversity of candidates has not been sought, it may postpone the co-option until this is addressed.
34. Councillors elected by co-option are full members of HPC.

Eligibility of Candidates

35. Councils are able to consider any person to fill a vacancy provided that that they are: -
 - a) Over 18 years of age; and
 - b) A British, EU or Commonwealth Citizen; and
 - c) Either: -
 - (i) An elector, or
 - (ii) Resided in the parish for the past 12 months, or
 - (iii) Within three miles (direct) of it, or
 - (iv) Occupied as an owner or tenant land or premises therein, or
 - (v) Have their principal place of work in the parish.
36. There are certain disqualifications for election, of which the main are: -
 - a) Holding a paid office within the Council;
 - b) Bankruptcy;
 - c) Having been sentenced to a term of imprisonment (whether suspended or not) of not less than three months, without the option of a fine during the five years preceding the election; and
 - d) Being disqualified under any enactment relating to corrupt or illegal practices.
37. HPC will investigate and/or obtain evidence about a candidate's eligibility to be a councillor if this is challenged.
38. Candidates found to be offering inducements of any kind will be disqualified.

Application Process

39. All potential candidates will be requested to put their application for co-option in writing with the following information: -
- a) Confirm their eligibility;
 - b) Confirm that they do not meet any of the criteria to be disqualified from being a Councillor;
 - c) Which ward they wish to represent;
 - d) Reason for wishing to become Councillor;
 - e) Previous community and/or Council work; and
 - f) Other skills and experience that may be relevant in support of their application
40. Candidates will be informed it is a condition of a being a Councillor that a means of contact by email will be public information and that being a Councillor entails having contact details in the public domain.
41. However for the purpose of co-option, private email addresses and other personal data will not be in the public domain, except for their name and the supporting information above.

At the Co-option Meeting

42. Once an eligible applicant has applied for co-option, the Clerk will put down the following agenda item at the next suitable Full Council meeting: 'To consider written applications for the office of Councillor for [] ward and to co-opt a candidate to fill the existing vacancy/vacancies'.
43. All items for co-option will be held in public session at the Full Council meeting.
44. At the co-option meeting, candidates will be given 5 minutes maximum to introduce themselves to Councillors, give information on their background and experience and explain why they wish to become a Hughenden Parish Councillor.
45. Councillors will then have the opportunity to ask questions of the candidates.
46. The Council reserves the right to give the opportunity for candidates to give their presentation to the Council without the other candidates present, to offer fairness and equal opportunity to all candidates.

47. Where the number of candidates is less than, or the same as, the number of vacancies in the ward for which they have applied, the candidates will be appointed if they are eligible and are not disqualified.
48. If there are more candidates than vacancies for the ward for which candidates have applied, Council will need to consider fairly who to co-opt and may take into account any skills and expertise that it indicated would be particularly welcome when advertising the vacancy.
49. If there are 2 candidates for a vacancy, the Council will vote for their preferred candidate by a show of hands and the candidate who obtains the most votes will be appointed to the Council.
50. A candidate has to obtain an absolute majority of votes cast in order to be appointed to the Council. So if there are more than 2 candidates for a vacancy and no candidate has an overall majority in the first round of voting, the candidate with the least number of votes will drop out of the process. Further rounds of voting will then take place with the process repeated until a candidate has an absolute majority.
51. In the case of an equality of votes, the Chair of the meeting has a second casting vote.
52. If the Council decides not to fill a vacancy, it will record that decision, and the reason for it, in the minutes of the meeting.
53. The Clerk will explain to unsuccessful candidates the reasons for Council's decisions in writing within 5 days of the co-option meeting.
54. Once the Chair has declared the successful candidate(s) duly appointed, they will be asked to sign their declaration of acceptance of office and may take their seat immediately. Successful candidates who are unable to attend the co-option meeting will be invited to sign their declaration before the next Council meeting or before such date the Council otherwise agrees.
55. The Clerk will notify Buckinghamshire Council of the new Councillor appointment.
56. The successful candidate(s) must complete the 'register of interests' within 28 days of being elected. The form should be submitted to the Monitoring Officer at Buckinghamshire Council or may be completed on-line. Further details will be provided to the successful candidate(s).
57. If insufficient candidates come forward for co-option, the vacancies will be re-advertised.