



**AMBER VALLEY  
BOROUGH COUNCIL**

**Town/Parish Elections –**

**A Guide to Filling a Casual Vacancy**

## **1. Procedure**

In the event of a casual vacancy occurring, public notice must be given by the Parish Council, in accordance with Section 87(2) of the Local Government Act 1972. The notice must state the reason for the vacancy (i.e. resignation, death, failure to attend meetings for a period of six months, or disqualification).

The Parish Council must inform the Returning Officer of the vacancy.

The notice should be displayed in prominent places within the parish/parish ward. It must be displayed for 14 days, following the date it is displayed. This period does not include Saturdays, Sundays, Bank Holidays)

In the case of a vacancy occurring within six months before the day of which the councillor would have normally retired, an election is not held and the vacancy is left until the next ordinary election.

## **2. Claiming an Election**

Ten electors of the parish/parish ward can call for an election to be held, within the 14 day period the notice is displayed. The request must be in writing to the Returning Officer, Amber Valley Borough Council, PO Box 15, Town Hall, Ripley, Derbyshire, DE5 3XE. The request must contain the name, address and signature of each of the ten electors.

In the event of a request for an election, the Returning Officer will decide on the date of the election, which must be held within 60 working days from the date the notice of the vacancy was displayed.

In the event of no nominations being submitted, a further election will have to be arranged and held within 35 days of the original election, and so on until a candidate is elected.

## **3. No Election Requested**

If an election is not requested, the Returning Officer will notify the Parish Council, and they must co-opt a member to fill the vacancy as soon as possible.

## **4. Procedure to be followed for co-option**

In the case of co-option, the following procedures should be followed:

- the vacancy to be advertised within the parish/parish ward and/or local press;

- interested persons to submit to the Parish Council, a CV and to give reasons why they should be considered for the vacancy;
- interested persons must fulfil the following criteria:
  - be registered as a local government elector for the parish – give electoral number; or
  - have occupied as owner or tenant, within the preceding 12 months, land or premises in the parish – give address; or
  - had their principal or only place of work, during the last 12 months, within the parish – give address; or
  - have, during the preceding 12 months, resided in the parish or within 4.8 kilometres of it – give address.
  - be 18 years of age or over – give date of birth.
  - not be disqualified for holding office as a member of a local authority – see extracts from the Local Government Act 1972.
  - submit details of any political party membership.
- each interested person to be invited to address the Parish Council, outlining their reasons for wanting to be a parish councillor;
- the Parish Council to then ask questions of each candidate which shall include whether they will sign the electoral compact (copy attached);
- the Parish Council must then take a vote on each candidate. A successful candidate should have received an absolute majority vote of those present and voting.
- if there are more than two candidates, the name of the person with the least number of votes will be withdrawn, and further voting will be held until one person receives a clear majority.
- the successful candidate will be asked to sign a Declaration of Acceptance of Office;
- the Parish Clerk to provide a package of information to the successful candidate, to include:
  - Code of Conduct;
  - Guidance notes for registration of interests;
  - Registration of Interests form for completion and return;
  - Standing Orders and Standing Financial Regulations;

## **5. Term of Office**

The person elected or co-opted to fill the vacancy, holds office until the person in whose place they have been elected/co-opted, would have regularly retired.

**Local Election Compact for Amber Valley –  
Borough & Parish Elections**

Name in block letters.....

Signed .....

Date .....

The above signed:

- (a) believes in the importance of harmonious relations between the diverse communities of Amber Valley and commits to take every opportunity to improve those relations;
- (b) gives an undertaking to represent the interests of all constituents, regardless of race, sex, colour, religion and belief, age, sexual orientation, disability or any other unlawfully discriminating factor;
- (c) rejects all forms of racial violence, racial harassment and unlawful racial discrimination;
- (d) agrees not to publish or endorse material likely to generate hostility or division between people of different racial, national or religious groups;
- (e) agrees to ensure that, when canvassing, not to use any actions or words that might lead others to discriminate or stir up racial or religious hatred, or lead to prejudice on the grounds of race, nationality or religion; and
- (f) gives an undertaking that anyone involved in their campaign for election will abide by these principles and accepts that any breach will be investigated and appropriate action will be taken against offenders.

Extracts from the Local Government Act 1972 – Part V (as amended)

Disqualifications for election and holding office as member of local authority.

Section 80

(1) Subject to the provisions of section 81 below, a person shall be disqualified for being elected or being a member of a local authority and be disqualified for being elected or being an elected mayor if he –

(a) holds any paid office or employment (other than the office of chairman, vice-chairman or deputy chairman or, in the case of a local authority which are operating executive arrangements which involve a leader and cabinet executive, the office of executive leader or member of the executive) appointments or elections to which are or may be made or confirmed by the local authority or any committee or sub-committee of the authority or by a joint committee or National Park Authority on which the authority are represented or by any person holding any such office or employment; or

(aa) holds any employment in a company which, in accordance with Part V of the Local Government and Housing Act 1989 other than section 73, is under the control of the local authority; or

(b) is the subject of a bankruptcy restrictions order or interim order; or

(d) has within five years before the day of election or since his election been convicted in the United Kingdom, the Channel Islands or the Isle of Man of any offence and has had passed on him a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine; or

(e) is disqualified for being elected or for being a member of that authority under Part III of the Representation of the People Act 1983.

(2) Subject to the provisions of section 81 below, a paid officer of a local authority who is appointed on the direction of –

(a) a committee or sub-committee of the authority any member of which is appointed on the nomination of some other local authority; or

(b) a joint board, joint authority or joint committee on which the authority are represented and any member of which is so appointed;

shall be disqualified for being elected or being a member of that other local authority.

(2A) Subsection (2) above shall have effect as if the reference to a joint board included a reference to a National Park Authority.

(2AA) A paid member of staff of the Greater London Authority who is employed under the direction of a joint committee the membership of which includes –

(a) one or more persons appointed on the nomination of the Authority acting by the Mayor, and

(b) one or more members of one or more London borough councils appointed to the committee on the nomination of those councils,

shall be disqualified for being elected or being a member of any of those London borough councils.

- (2B) For the purposes of this section a local authority shall be treated as represented on a National Park Authority if it is entitled to make any appointment of a local authority member of the National Park Authority.
- (3) Subsection (1)(a) shall have effect in relation to a teacher in a school maintained by the local authority who does not hold an employment falling within that provision as it has effect in relation to a teacher in such a school who holds such an employment.
- (5) For the purposes of subsection (1)(d) above, the ordinary date of which the period allowed for making an appeal or application with respect to the conviction expires or, if such an appeal or application is made, the date of which the appeal or application is finally disposed of or abandoned or fails by reason of the non-prosecution thereof shall be deemed to be the date of the conviction, as the case may be.

Exceptions to provisions of section 80

Section 81

- (4) Section 80(2) and (3) above shall not operate so as to disqualify –
  - (a) any person by reason of his being a teacher, or otherwise employed, in a school or other educational institution maintained or assisted by a county council for being a member of a district council by reason that the district council nominates members of the education committee of the county council.