



Parish Office  
Suite 1  
4, The Limes  
Ingatestone  
Essex  
CM4 0BE  
Telephone: 01277 353315  
Email: [office@ingatestone-fryerningpc.gov.uk](mailto:office@ingatestone-fryerningpc.gov.uk)  
[www.ingatestone-fryerningpc.gov.uk](http://www.ingatestone-fryerningpc.gov.uk)

## **Ingatestone and Fryerning Parish Council** **A short guide to Parish Council Election Procedures**

### **Introduction**

The rules and regulations for Parish Council Elections are included in the 1983 and 1985 Representation of the People Acts together with the Local Elections (Parishes and Communities) Rules 1986. In addition, the Electoral Administration Act 2006 includes provisions concerning the way that voting is carried out at the polling station and about postal and proxy voting. The rules also explain the electoral timetable, combined elections, poll cards and the co-option of members.

### **Term of Office**

Parish Councillors hold office for four years. When scheduled elections are held (usually the first Thursday in May, every four years), the terms of all the existing Councillors end on the fourth day after the day of the election, at which time the newly elected councillors succeed them (provided they have made declarations of acceptance of office).<sup>1</sup>

There is one exception to this. The Chairman of a parish council continues in office until his or her successor is appointed and this applies even if he or she is not re-elected or does not stand for re-election. The Vice-Chairman also continues until after the new Chairman is elected.

Existing Councillors may put themselves forward for re-election but they will not be able to serve a further term unless they have been properly nominated as candidates and are subsequently elected.

### **Notice of Election**

Every election commences with the publication by the Returning Officer of the Notice of Election. It specifies the number of candidates to be elected and sets out various deadline dates for the election, including the date and time by which nomination papers must be submitted. A copy will be sent to the Parish/Town Clerk for publication within the Parish.

### **Nomination**

To stand for election, a candidate must submit a nomination paper. It is very important that nomination papers be completed correctly. The following information should be used as a guide:

- Each candidate must be nominated on a separate nomination paper.
- The nomination paper must show:
  - Name and home address in full. This means all the candidate's forenames (not initials) as well as their surname and their complete address, including the post code and with the names of roads and streets completed in full (not abbreviated).

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<sup>1</sup> Local Government Act 1972, section 16(3)

- Common name (if desired). If a candidate is commonly known by some other name and wishes to have it used on the official documents relating to the election (including the ballot papers), they may specify it on the nomination paper and the Returning Officer will decide whether it can be used instead of the candidate's given name(s).
- Description (if desired). Examples of descriptions include the name of a political party, the candidate's profession or any description of not more than six words which best describes them or the reason why they are standing. If a candidate proposes to stand under the name of a political party, the nomination paper must be accompanied by a certificate signed by a duly authorised officer of that party confirming that the candidate may use the party's name as his or her description.
- A nomination paper must be signed by two electors – a Proposer and a Secunder. Both electors must appear on the current electoral register and neither can sign more nomination papers than there are vacancies to be filled. The nomination paper will not be valid unless the proposer's and the seconder's electoral numbers are also given on the nomination paper.
- A document confirming that the candidate consents to their nomination must accompany the nomination paper and it must be witnessed by someone who knows the candidate. Candidates must also state on this consent that they are qualified to stand for election, and to specify how they are so qualified. To qualify, a candidate must satisfy at least one of the following –
  - to be registered as a local government elector of the parish, or
  - during the whole of the last 12 months to have occupied either as owner or tenant, land or other premises in the parish, or
  - during that period to have had their principal or only place of work located within the parish, or
  - during the whole of the preceding 12 months, to have resided in the parish or within 4.8 kilometres (3 miles) of the parish boundary. It is good practice for a candidate to indicate all the qualifications that apply.

The information on the nomination paper will be reproduced exactly on the Statement of Persons Nominated and, subsequently, on the ballot papers.

The Returning Officer will prepare the Statement of the Persons Nominated as soon as possible after the last time for submitting nomination papers and a copy will be sent to the Parish Clerk for publishing locally. There follows a further short period during which validly nominated candidates may withdraw from candidature. After that, if more candidates remain than there are vacant seats on the Council, the election will be contested and a poll will be held.

### **Contested Elections**

Where an election is contested, the Returning Officer will plan for a poll to be held between 7 a.m. and 10 p.m. on the day specified. Amongst other things, this will involve booking polling stations, appointing polling, clerical and count staff, printing ballot papers and dispatching postal votes. At principal council elections poll cards also must be issued to electors but they are not compulsory at Parish Council elections. Where the poll at a Parish Council election is not combined with a poll at a District or County Council election, the Parish or Town Council may nevertheless request that poll cards be produced and issued to electors but, if so, the request must be made in writing and submitted before the close of the nominations process. It is not therefore possible for the Council to wait to consider this until after it is known whether the election will be contested. If no request for poll cards is made by the deadline, they cannot be issued, regardless of how many candidates there may be at the election.

Where a Parish Council election takes place on its own, the full costs of producing and mailing poll cards will be recharged to the Parish Council, as will the costs of hiring venues, paying staff, sending and receiving postal votes, printing ballot papers etc. Where polls are combined, some costs can be shared, such as the cost of hiring a polling station used for both elections and the fees paid for people to staff it.

### **Uncontested scheduled elections**

If the number of remaining candidates is the same as there are seats on the Council, the validly nominated candidates automatically become Councillors without a contest. The Returning Officer will give public notice and formal notice to the proper officer of the Parish or Town Council of the persons declared to be elected. An unopposed candidate will take office immediately after they have been declared to be elected<sup>2</sup> provided they sign the Declaration of Acceptance of Office.

If there are fewer candidates than there are seats on the Council, the validly nominated candidates take up office and the remaining seats will be filled in one of two ways:

1. If the number of Councillors that have taken up office comprises a quorum (one third of the total number of seats on the Council, subject to a minimum of three), then the Council can make its own decisions about who should be taken on to the Council to fill the remaining available seats. They fill the remaining seats by the process of co-option (further information about this is given below).
2. If the number of Councillors that have taken up office does not constitute a quorum, the Returning Officer must order a fresh election<sup>3</sup>, which must be held within 35 working days of the date fixed for the original election. In the meantime, the Borough Council may by order temporarily appoint persons to fill the seats to establish a quorum for the Council and permit it to undertake any statutory business<sup>4</sup>.

### **Co-option to unfilled seats after a scheduled Election**

Where the Council has a quorum, co-option to fill seats that were left unfilled after an ordinary, scheduled election can occur straight away after the election has taken place. The process of co-option and a suggested 'best practice' method for carrying it out is detailed below. The Council may, nevertheless, wish to write its own procedure or guidelines for co-option to ensure that the process is open and fair to all.

### **Casual Vacancies - vacancies arising from resignations etc.**

During the 4-year term of a Council, if one of the Councillors fails to attend meetings for a period of 6 months, resigns, dies, ceases to be qualified or is disqualified, a 'casual vacancy' occurs. The procedure for dealing with casual vacancies is set out below

- The proper officer must inform the Returning Officer in writing of the circumstances.
- Upon notification of a vacancy to the Returning Officer, the proper officer sends the parish Clerk an official 'Notice of Vacancy' which must be displayed in the parish.
- Apart from the time limit for requesting an election to fill a casual vacancy, such a request needs to be made by ten electors for the area. The request must be signed by each of the ten electors and delivered to the Returning Officer at Brentwood Borough Council. If a request for an election is received, the Returning Officer will notify the Parish Council as soon as possible and a by-election will be held in accordance with the Regulations. The Returning Officer will decide upon the date of the election, which must be held within 60 working days of the first date of publication of the Notice of Vacancy.
- If no request for an election is received, the 'Notice of Vacancy' expires after 14 days and the Returning Officer will inform the Council that no election has been called. The Council may then co-opt a new Councillor to fill the vacancy.

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<sup>2</sup> Local Government Act 1972, Section 16(3)

<sup>3</sup> Section 39 of the Representation of the People Act 1983

<sup>4</sup> Local Government Act 1972, section 91

### **Co-option following a Casual Vacancy**

The process of co-opting a new Councillor to fill a vacant seat following a casual vacancy can only be carried out after the vacancy has been advertised using a 'Notice of Vacancy' and that notice has expired. There are, however, no procedures laid down in the legislation concerning how to go about co-opting someone to membership of a Parish Council but Ingatestone and Fryerning parish Council have a formalise Co-option Policy.

### **Co-option procedures**

For the Council to obtain expressions of interest from people in the community in becoming a Councillor, the Council can display its own form of advertisement to show that there is a vacancy that the Council wishes to fill. This is an informal notice to gain interest from potential co-optees and should not be confused with the official 'Notice of Vacancy' (see above).

It is generally regarded as good practice to make the vacancy as widely known as possible. It would be helpful to provide the contact details of someone who can advise on the responsibilities and time commitments involved and to specify the date by which applications should be received.

Membership of a Parish Council is open to British Citizens, Commonwealth Citizens, and citizens of other European Union member states who satisfy the statutory qualifications. These qualifications apply equally to candidates at an election and applicants for co-option. A candidate therefore qualifies if he or she is a registered elector in the Parish area or if, during the whole of the twelve months before the election or co-option, they have owned or been a tenant of any land or premises in the Parish, or if their principal or only place of work has been in the Parish, or if they have resided in the Parish or within 4.8km (3 miles) of it.

There is no upper age limit, but Councillors must be over 18 years when elected or co-opted. There are some disqualifications, such as being an employee of the Council or an undischarged bankrupt. Details may be obtained from the elections office if required.

The person co-opted must receive an absolute majority vote of the councillors present and voting. For example, where there is a council of eleven members and there are nine councillors present and voting, the absolute majority is five. Where there are more than two candidates for a vacancy, it may be necessary to run a series of votes, each time removing the candidate who has the least number of votes until one candidate secures an absolute majority.

The usual rules on voting apply. Provided that the meeting has a quorum, the decision must be made by a majority of members who are present and voting. The person presiding over the meeting may vote and, if there is an equality of votes, they may exercise their casting vote. As per Ingatestone and Fryerning parish Council's Co-option policy, voting is undertaken by ballot and conducted in closed session.

A person elected or co-opted to fill a casual vacancy holds office until the person in whose place they are elected or appointed would regularly have retired.

### **Exceptions to the procedures outlined above**

- If a casual vacancy occurs as a result of the death of a Councillor, the production and display of the 'Notice of Vacancy' can be postponed until such time as the Returning Officer/Proper Officer/other Councillors feel it is reasonable (often this will be after the funeral). Whilst there is a legal obligation for the Proper Officer to notify

the Returning Officer of a casual vacancy, there is no intention to cause unnecessary distress.

- If a vacancy results in a Parish Council becoming inquorate, or if a vacancy occurs within 6 months of scheduled elections, different rules apply.

#### **Documents to be completed by Councillors**

1. All Councillors (whether elected or co-opted) must complete a 'Declaration of Acceptance of Office' form. This form confirms that the Councillor is taking up office, and that they agree to abide by the Council's 'Code of Conduct'. A person elected to the office of Chairman or Parish or Town Councillor shall:
  - a) in the case of a Chairman of a Parish or Town Council sign the declaration at the meeting at which they are elected.
  - b) in the case of a Parish Councillor, before or at the first meeting of the council after their election: or
  - c) in either case, if the council at that first meeting allows, before or at a later meeting

The declaration should be made in the presence of a member of the council or its proper officer. Failure to make the declaration or failure to make the declaration at the required time or in the correct manner will mean that the office will become vacant.

2. All Councillors (both elected and co-opted) must complete a 'Register of Interests' form to give details about any property/land they own in the Parish area, any financial interests, and any other bodies that they belong to/carry out work for, in order to reveal any matters that they have an interest in, should the Council be called upon to make a decision in that area.

The Proper Officer should provide the forms for the new Councillor to complete. Completed Register of Interests forms should be copied and the copies sent to Brentwood Borough Council. The originals should be kept on file in the parish office.

Please remember that a Parish Council is a corporate body and as such is subject to a Judicial Review if the correct procedures are not followed.