



**CITY AND COUNTY OF SWANSEA**  
**DINAS A SIR ABERTAWE**

**A Guide to Casual Vacancies for  
Community / Town Councils**

**Introduction**

This guide is for Community / Town Council Clerks and looks at the process of casual vacancies which may arise.

This is not an exhaustive guide, but meant as a quick reference. Clerks are encouraged to contact Electoral Services on 01792 636123 or [elections@swansea.gov.uk](mailto:elections@swansea.gov.uk) if you require any further advice.

**What is a Casual Vacancy?**

A Casual Vacancy is when a seat on the Community / Town Council becomes vacant during the current term of the Council. Casual vacancies occur for one of six reasons:

1. Failure to accept office:
  - a. A declaration of acceptance of office must be made by each successful candidate before or at the first meeting of the Community/Town Council after their election; or the council at that meeting can allow this to take place before or at a later meeting as arranged by the Council.
2. Resignation:
  - a. A Councillor may resign at any time by delivering written notice to the Chairman of the Community/Town Council. If the Chairman is resigning, they give their notice to the Community/Town Council.
  - b. There is no prescribed form for resignation and there is no process for withdrawing the resignation.
3. Death:
  - a. The vacancy is deemed to have taken place on the date of the death.
4. Ceasing to be qualified:
  - a. The only instance of a Councillor ceasing to be qualified is if the only qualification used for election was their inclusion on the Electoral Register. As such, if a Councillor fails to appear on subsequent Electoral Registers, then they are deemed to have ceased being qualified.
  - b. Information shown on the Candidates consent to nomination is not relevant (as they are not available for inspection past polling day), it is whether the other qualifications were in place at that time.

5. Becoming Disqualified:
  - a. The following reasons are disqualifications used at election time and during the Councillors term of office:
    - i. Employment – by the local authority (or holding paid office within the authority)
    - ii. Bankruptcy – if the Councillor becomes the subject of a Bankruptcy Restrictions Order or Interim Order
    - iii. Sentenced to imprisonment – This is for a prison term of three months or more (whether a suspended sentence or not) without the option of fine, within a 5-year period before polling day.
    - iv. Being disqualified under Part III of the RPA 1983 (donations or other offences) or under the Audit Commission Act 1998.
    - v. Found guilty by an election court of a corrupt or illegal practice.
    - vi. Following a decision by the Adjudication Panel for Wales.
6. Failure to attend meetings:
  - a. A member fails to attend for a consecutive period of six months, unless the failure to attend was approved by the Community/Town Council.
  - b. Attendance is deemed to cover Council meetings, committees, sub-committees, or as a representative of the Community/Town Council on outside bodies.
  - c. A period of suspension does not count towards the six-month period.

**When does the vacancy begin from?**

<b>Vacancy Reason</b>	<b>Effective Date (when the vacancy occurs)</b>
Failure to accept office	The closing date for a declaration to be made
Resignation	When the resignation notice is received by the person who is required to receive it.
Death	On the day of the death.
Ceasing to be qualified	The council must declare the vacancy as soon as possible and the vacancy is deemed to have occurred on the date of this declaration.
Becoming disqualified	The council must declare the vacancy as soon as possible.
Failure to attend meetings	The vacancy occurs on the date declared by the council by resolution.

## **When should the Notice of Casual Vacancy be published?**

It is the responsibility of the Clerk to publish the notice of vacancy in “some conspicuous place or places within the community area”. A notice should be published for each vacancy or for vacancies that occur at the same time (such as 2 resignations being handed in at the same time). A sample notice is included in Appendix 1. We would also recommend posting the notice to your website (if you have one)

<b>Vacancy Reason</b>	<b>Publication of Notice of Vacancy</b>
Failure to accept office	As soon as practicable after the vacancy occurs
Resignation	As soon as practicable after the vacancy occurs
Death	As soon as practicable after the vacancy occurs. We would suggest that the notice is not published until after the funeral has taken place as a mark of respect.
Ceasing to be qualified	As soon as the vacancy is declared
Becoming disqualified	As soon as the vacancy is declared
Failure to attend meetings	As soon as the vacancy is declared

If a vacancy happens within 6 months of the next election of the full Council, then a Notice of Casual Vacancy has to still be posted but there is no provision for an election to be called.

## **What is an election request?**

Following the publication of the Notice of Vacancy, 10 electors named on the Electoral Register (at the time of the request) for the electoral area in which the vacancy exists, can write to the Proper Officer of the Principal Area (in Swansea this is Jack Straw, Returning Officer) to request that an election takes place. They have to do this within 14 days (excluding Dies Non<sup>1</sup>) from the date of publication of the Notice of Vacancy (publication date counts as day ‘0’).

For example, if a casual vacancy occurs in one of the wards which make up the Community Council area, only electors for that ward can submit a request for an election.

It is helpful if the 10 electors give their name and address (optional – but is extremely useful for checking they are registered electors), along with their signature (compulsory). As signatures are required this request cannot be an email, but could be submitted via fax or a scanned image.

This request is open to public inspection and a copy can be made.

---

<sup>1</sup> Dies Non are Saturday, Sunday and any Bank Holiday (including Christmas Eve and Christmas Day)

### **What happens next?**

If a request is not received in the 14 day period, Electoral Services will inform the Clerk that the Community/Town council must fill the vacancy by co-option as soon as practicable after the end of the 14 days.

If a request is received, then an election must take place (on a date decided by the Returning Officer) within sixty days of the date that the Notice of Vacancy was published.

### **How long is a Councillor's term?**

All Councillor's term ends on the fourth calendar day after the next full election for the Community / Town Council (if this is a Bank Holiday Monday, the Tuesday becomes the end of term day). If a Councillor is elected at a by-election they also retire at this date.

### **When does a Councillor's term begin?**

At a casual vacancy Section 35 of the Local Government Act 1972 does not apply and, as the seat is already vacant, the person elected will take up the office at the declaration that the Returning Officer makes. This will be either at the close of withdrawals, where only the required number of candidates or less are validly nominated (in this case the notice of uncontested election), or at the end of the count if an election is held.

### **Does a Community / Town Council have to advertise a co-option?**

Part 7, chapter 3 of the Local Government (Wales) Measure 2011 put into place that a duty to give public notice of a co-option. This notice must contain:

- the contact details of the individual from whom further information about the vacancy or vacancies in question, and the process for selecting a person for co-option, may be obtained.
- any other information that is considered appropriate.
- other information as is required to be included in the notice by any regulations made by the Welsh Ministers

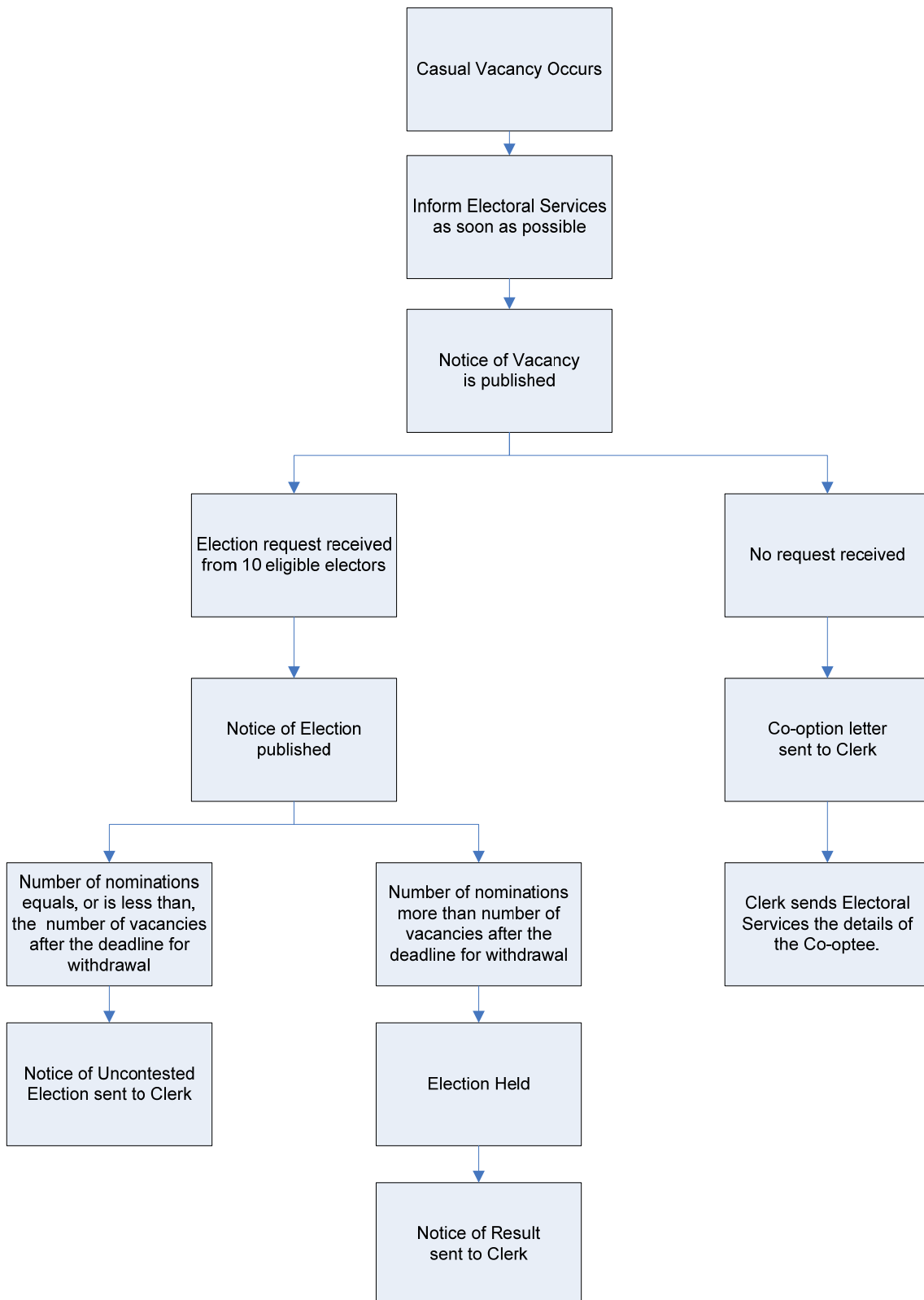
Contact Details:

Electoral Services,  
Room 2.2.3,  
Civic Centre,  
Oystermouth Road,  
Swansea,  
SA1 3SN

Telephone: 01792 636123

Email: [elections@swansea.gov.uk](mailto:elections@swansea.gov.uk)

## Casual Vacancy Process Flowchart



Appendix 1

<NAME OF COUNCIL>

NOTICE OF VACANCY

IN THE OFFICE OF COUNCILLOR FOR THE <WARD NAME>

NOTICE IS HEREBY GIVEN pursuant to Section 87 (2) of the Local Government Act 1972 that a Casual Vacancy exists in the Office of Councillor for the above ward of the said community.

An election to fill the vacancy will be held if within fourteen days (computed in accordance with Rule 2 of the Local Parish and Communities Rules 1986) after the publication of this notice a request for such an election is made in writing to the Returning Officer, Room 2.2.3, Civic Centre, Swansea, SA1 3SN by TEN electors for the electoral area in which the vacancy occurs.

If no such request in writing is received by the Returning Officer the vacancy will be filled by the Community Council by co-option.

Dated this <date in full> day of <month and year>.

<SIGNATURE>  
Clerk to the Council

## Appendix 2

### Useful links

<b>Candidate Guidance for Community / Town Councils from the Electoral Commission</b>	<a href="http://www.electoralcommission.org.uk/i-am-a/candidate-or-agent/parish-and-community-council-elections-in-england-and-wales">http://www.electoralcommission.org.uk/i-am-a/candidate-or-agent/parish-and-community-council-elections-in-england-and-wales</a>
<b>One Voice Wales</b>	<a href="http://www.onevoicewales.org.uk/">http://www.onevoicewales.org.uk/</a>