

GUIDANCE NOTE: FILLING CASUAL VACANCIES ON COUNCIL

Legislation: The Electoral Law Act (Northern Ireland) 1962 (Amendment) Order 2010

As soon as practicable after receipt of a resignation of a councillor the Chief Executive must inform the Chief Electoral Officer (CEO) in writing, providing the following information –

- Name of resigning councillor
- DEA the vacancy falls in
- Effective date of the resignation
- Whether the councillor was elected as a member of a political party or independent (on the Statement of Persons Nominated).

Note: The Local Government Act (Northern Ireland) 1972 section 8 states that the resignation must be submitted by a notice signed by the resigning councillor which is why we would recommend the council requests the resignation in writing.

All correspondence must be sent to the Chief Electoral Officer at –

EONI Headquarters
St. Anne's House
15 Church Street
Belfast
BT1 1ER

or emailed to – info@eoni.org.uk (marked for the attention of the CEO)

There are two separate processes used to fill the vacancy depending on whether the resigning councillor was elected as a member of a political party or an independent councillor.

1. Section 11E – Members of Political Party: filling the vacancy

On receipt of the notification of the vacancy from the Chief Executive the CEO will –

- a) Write to the party nominating officer requesting them to nominate a candidate to fill the vacancy. The party nominating officer has 28 days from the date of the request to notify the CEO, in writing, of their nominee. The nominee must be qualified to fill the vacant seat.
- b) The nominee will be asked to serve 2 declarations; 1 to the CEO fulfilling the requirements set out in section 11E(4) and a Declaration Against Terrorism to the Council Chief Executive.

- c) On receipt of the Declaration Against Terrorism the Chief Executive should ensure that it is properly completed with the full name, home address and signed (note: it must be the full name, initials are not acceptable). Confirmation of the receipt of the fully completed Declaration Against Terrorism should be emailed to the CEO.
- d) Where the nominating officer responds with the requirements of section 11E(2)-(4) the CEO will declare the nominee returned to fill the vacant seat. The CEO will notify the Chief Executive in writing and a notice will appear on the Electoral Office website. (NB: It would be helpful to provide email contact details so that confirmation of the return can be sent to you immediately).
- e) If the nominating officer fails to nominate a candidate within the 28 day period the vacancy will be filled by way of a by-election.

Note: If an elected member changes designation to another registered party after the election the vacancy will be filled by the party to which the member belonged when elected.

2. Section 11D – Independent Members: filling the vacancy

Members elected as Independents may submit a list of up to six substitutes to the CEO after the election who will be contacted, in order, to fill their seat in the event of it becoming vacant during the term.

On receipt of the notification of a vacancy from an Independent member with a substitute list, the Chief Executive the CEO will –

- a) Write to the first named substitute on the list asking them to confirm in writing within 14 days of the request, if they are willing and able to take the seat.
- b) If the first name substitute is unable to fill the vacancy the CEO will repeat the process of contacting the named substitutes in order until the vacancy is filled or the list is exhausted. If the list is exhausted and no substitute has been declared returned the vacancy will be filled by way of a by-election.
- c) If the named substitute is willing and able to fill the seat they will be asked to serve the two declarations as at point 1(b) above. They must be qualified to fill the seat. The same process as 1(c) above applies for notifying the CEO of receipt of the Declaration Against Terrorism.
- d) Once all the paperwork has been received the CEO will declare the substitute returned to fill the vacancy. The same notification process as 1(d) above applies.

- e) If the independent candidate has not submitted a substitutes list the vacancy will be filled by way of a by-election.

After the election the CEO wrote to each independent councillor asking them to provide a list of substitutes (section 11C). In a small number of cases, independent councillors have not submitted a substitutes list. The Council Chief Executive should ensure, so far as possible, that an independent councillor who intends to submit their resignation, has submitted a list of substitutes. This will avoid the risk of having to hold a by-election.

This substitution/nomination process can be used during the term. However, any vacancy arising on or after 1 January in a local election year will remain unfilled until the election.

Disqualification

Section 3 of the Local Government Act (Northern Ireland) 2014 came into force on 1 April 2015. Section 3 introduces a bar on MLAs, MPs, MEPs and members of the House of Lords and members of the legislature of any other country being councillors. In the event of an existing councillor being nominated and accepting a position to be a member on the Northern Ireland Assembly will subsequently disqualify them from being a councillor.

