

# **Guidance Note: Filling Casual Vacancies in Local Councils**

**Legislation: Section 11, The Electoral Law Act (Northern Ireland) 1962**

## **Notification of Vacancy (Section 11(4AB))**

The Chief Executive of the Council must as soon as practicable after a casual vacancy arises notify the Chief Electoral Officer (CEO):

- (a) that a casual vacancy has arisen in the council, and
- (b) of the name of the member of the council whose seat has become vacant.

**Note:** Section 8 of the Local Government Act (Northern Ireland) 1972 states:

- (1) A councillor may at any time resign his office as such by notice signed by him and served on the clerk of the council.
- (2) A resignation shall take effect upon the receipt by the clerk of the notice of resignation.

**Therefore a notice with a future resignation date cannot be accepted.**

All correspondence must be either emailed to [casualvacancies@eoni.org.uk](mailto:casualvacancies@eoni.org.uk) or delivered to the following address:

Chief Electoral Officer  
St. Anne's House  
15 Church Street  
Belfast  
BT1 1ER

## **Initial response to vacancy (Section 11B)**

On receipt of the notification the CEO will check the Statement of Persons Nominated for the relevant DEA to confirm which political party the previous councillor was elected under or if they were an independent.

**Note:** If a councillor changes designation to another political party after the election or becomes an independent councillor the vacancy will revert to the party under which the person stood when elected.

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

### **Members for registered parties: filling casual vacancies (Section 11E)**

The CEO will, as soon as possible after being notified by the Council Chief Executive, write to the party nominating officer asking them to nominate a replacement within 28 days of the date of the letter from the CEO.

The Council Chief Executive will receive a letter to acknowledge receipt of the vacancy notification.

The party nominating officer will write to the CEO with the details of the nominee.

The nominee will be required to provide two forms: a Nominee's Declaration (to be provided to the CEO) and a Declaration Against Terrorism (to be provided to the Council Chief Executive).

On receipt of the Declaration Against Terrorism the Chief Executive must ensure that it is properly completed with the full name, home address, signature and date.

### **Returning the Nominee (Section 11E(5))**

Once the CEO receives the letter from the nominating officer and the Nominee's Declaration they will email the Council Chief Executive and ask them to confirm that they have received the Declaration Against Terrorism. Once this confirmation is received the CEO will declare the seat filled via a notice on the EONI website.

Confirmation letters will be sent from the CEO to the party nominating officer, the new councillor and the Council Chief Executive.

If the nominating officer fails to nominate a candidate within the 28 day period a by-election must be held to fill the vacancy.

### **Independent Members: list of substitutes (Section 11C)**

A member of a district council who stood as an independent when elected can submit a list of substitutes to the CEO. This list gives the names of up to six people who can be contacted in the event of a vacancy arising in the independent member's seat.

If a member submits more than one list, the latest list supersedes any earlier one.

After a Local Council election the CEO will write to all newly elected independent councillors and invite them to submit a 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 reduce the risk of having to hold a by-election.

### **Independent members: filling causal vacancy (Section 11D)**

On receipt of a notification of a vacancy where the previous councillor was an independent member with a substitutes list, the CEO will write to the first person on the substitute list asking them to confirm, within 14 days of the date of the letter, that they are willing to take the seat.

The Council Chief Executive will receive a letter confirming receipt of the vacancy notification.

If the first substitute fails to respond to the letter within 14 days or advises that they are not willing to fill the seat the process will be repeated for each subsequent substitute until one of them confirms they are willing to fill the seat.

If the substitute is willing to fill the seat they will be required to return a Nomination's Declaration to the CEO and a Declaration Against Terrorism to the Council Chief Executive.

On receipt of the Declaration Against Terrorism the Chief Executive must ensure that it is properly completed with the full name, home address, signature and date.

Once the CEO receives confirmation that the substitute is willing to take the seat and the substitute has provided a Nominee's Declaration, the CEO will email the Council Chief Executive and ask them to confirm that they have received the Declaration Against Terrorism. Once this confirmation is received the CEO will declare the seat filled via a notice on the EONI website.

If the CEO is unable to fill the vacancy from the substitutes list a by-election must be held to fill the vacancy.

If a vacancy arises in the seat of an independent member who has not submitted a substitutes list a by-election must be held to fill the vacancy.

### **Vacancies Arising in an Election Year (Section 11(4)(c))**

Any vacancy arising on or after 1st January in a local election year will remain vacant and will be filled at the election.

**Electoral Office for Northern Ireland**  
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