HAPTC

Hertfordshire Association of Parish and Town Councils

To lead, give value and help

Important information for all member Parish/Town Councillors and Clerks regarding elections and what to do now...

Frequently Asked Questions, the elections are nearly over, what do I need to do now?

1. *When does the old council cease and the new begin?*
   This takes place 4 days after the election, or the first working day if this is a Bank Holiday. Even those Councillors who did not re-stand or who were unsuccessful remain in office until this date, and those who have come in new cannot function in this capacity until then.

2. *What do I as Clerk need to do?*
   Firstly you will need to ensure that ***all*** those who will be Councillors in the new Council have completed their **Declaration of Acceptance** form. This will include those who were Councillors already and have successfully re-stood to remain in their role. This must be done before they can act as a Councillor at the first meeting, although it can be done immediately after the result is declared and can be just before the meeting commences.
   You can download the form from our website:
   https://www.haptc.org.uk/documents.html?query=declaration+of+acceptance+of+office+model&tag=&sort=title&submit=Search
   All new Councillors (and any others who have not yet done this) should also sign the Council's own **Code of Conduct**

3. *The previous Chairman is no longer a Councillor, what happens now?*
   The first item on the agenda of the Council's Annual Meeting must always be the election of the Chairman. In election year this must happen within 14 days of the new Council taking office, but cannot be called until the names of the new Councillors have been confirmed:

- If there is an election, the first day that the summons can be issued is the date of the change of council, so the meeting takes place with at least 3 clear working days' notice after that.
- If there are exactly the same number of candidates as seats ("uncontested") or less ("insufficient") then the names of all the Councillors for the new Council are known and so the summons can be issued earlier allowing for the Annual Meeting to be anytime from the date that the new Council takes office.

The *outgoing* Chairman must preside over this item if present, even if he is no longer a member of the Council. If this is the case, he does not have a vote, unless there is a tie, in which case he has the casting vote.

4. *There were fewer nominations than the number of seats available on our Council, what do we do now?*

- If insufficient nominations are received to trigger an election, the remaining candidates are declared elected.
- If there is a quorum, the Parish Council will be able to co-opt to fill any remaining vacancies.

- The Parish Council may display a poster to advertise the remaining vacancies.
- Co-option arises when there is a vacancy after elections through insufficient candidates. It may be seen as an appointment rather than an election but the question of qualifications and, in particular, disqualifications, is still relevant. Also co-opted members have the same status and responsibility as elected Councillors once they are appointed and then sign the declaration of acceptance of office.
- See the Notice of Insufficient Candidates at an Ordinary Election and Co-options Guide attached.
  Before exercising the power of co-option, the council does not have to give public notice of the vacancy or vacancies, although it may do so if it wishes. In practice, the giving of public notice is a sensible way to attract possible candidates for co-option and ensure openness and transparency for the Council.
  The Parish Council will consider co-option within a public Council meeting. The Clerk will report the names of the candidates to the Council and, if required, distribute their letters or application forms (if used). An interview process is not recommended although the Council may invite each candidate to address the meeting with their reasons for applying to be a Councillor.
  If there is more than one vacancy and the number of candidates equals the number of vacancies, all the vacancies may be filled by a single composite resolution. But if the number of candidates exceeds the number of vacancies, each vacancy must be filled by a separate vote or series of votes.
  The person co-opted must receive a majority of the votes of those Councillors present and voting at the meeting where the co-option takes place.
  So if there is more than one candidate the Parish Council must hold a ballot amongst its members. They must do so by successive counts to eliminate the least successful candidate until the successful candidate has an absolute majority of those present and voting. Councillors can only vote if they are present at the meeting. The vote may be undertaken by secret ballot but the result must be announced and any Councillor can ask for a recorded vote at any time.
  If there is an equality of votes at any time, the Chairman must use his casting vote.
  Councillors appointed by the Council hold office until the next ordinary election.

5. *When do Councillors need to complete their Register of Interests?*
   These continue to be in force until the fourth day when the old parish council hands over. On the fourth day, the register of ex-members should be withdrawn from the public domain (though a copy may be held on file for a short while in case an issue arises retrospectively) and new members then have 28 days to complete a new register. For members carrying on, monitoring officers *might* simply ask for confirmation that nothing has changed, whilst others could ask for the form to be re-signed and dated, but that is a matter for local custom and practice.

6. *Can an uncontested Councillor attend a meeting of a local Committee on which he sits as Council rep before the new Council is in place to re-affirm his position?*
   The short answer is yes although the timing of the meeting may make a slight difference, but the effect would be the same.

   As a parish councillor remains a parish councillor until the fourth day after the election (s16(3) of the 1972 Local Government Act), if the committee has their meeting within that 4 day window then the 'old' council is still the legal entity and he would continue to represent them on behalf of the 'old' council.

   If the committee meeting is after the fourth day but before the Annual Meeting (where the Council would seek to reappoint him or not to be their representative), as the Councillor is coming back onto the Council he could continue to fulfil that role as transitional arrangements

until a new reappointment is made – there has been no new mandate from the council countermanding the previous appointment. However, the Councillor must sign the declaration of acceptance of office before he acts in this capacity ie *before* attending a committee meeting, as this makes him officially a councillor and therefore able to be there in his parish councillor role. Had the Parish Councillor stood down or been defeated, they clearly could no longer act as a parish councillor after the fourth day.