

Cardiff County Council

Community Council Elections

A Brief Guide to Election Procedures

Updated: February 2022

Community Council Elections

Introduction to Elections Procedures

These notes are to advise candidates who wish to stand as Community Councillors, of the practice relating to Community Council Elections. It is for general guidance only and is not intended as a comprehensive statement of the law.

The Returning Officer appointed by Cardiff County Council is Paul Orders. He is responsible for the conduct of, and arrangements for Community Council elections.

However, the Community Council and its Clerk have an important role to play, especially in giving advice to prospective candidates prior to the five yearly ordinary elections and in the preliminary arrangements for the filling of casual vacancies, including by-elections.

Information about every vacancy – including Notice of Election, Statement of Persons Nominated, Notice of Poll and Declaration of Results – will be published on Cardiff County Council's website www.cardiff.gov.uk/elections

These notes should be a useful reference if you are involved with Community Council elections. However, if you need any more information, please contact the Elections Office on 02920 872034

You will also find useful guidance from the Electoral Commission
<https://www.electoralcommission.org.uk/i-am-a/candidate-or-agent/community-council-elections-wales>

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A. ORDINARY COMMUNITY COUNCIL ELECTIONS

1. Term of Office

Community Councillors hold office for a period of five years (or if elected part way through the cycle, for the remainder of that period only) and retire on the fourth day after the ordinary day of election. The newly elected Councillors take office (provided they have made declarations of acceptance of office) on the day on which their predecessors retire (Local Government Act, 1972, Section 16(3)). The Chair of a Community Council continues in office until their successor becomes entitled to act as such.

2. Combination of Elections

The Representation of the People Act 1983, Section 36 allows for the ordinary Elections of County Councillors to be combined with the ordinary elections of Community Councillors if they are held on the same day. If a Parliamentary General Election is called for the same day as the scheduled ordinary elections of Cardiff and Community Councillors, the law provides for the Parliamentary and County polls to be combined and the Community polling day to be postponed for three weeks.

3. The Election Timetable

We will provide Community Clerks with a timetable for each election or by-election. Saturdays, Sundays, Christmas Eve, Christmas Day, Good Friday or a Public Holidays are disregarded when the timetable is being calculated before polling day. They are however, included in the calculation of proceedings following polling day. For example, the last day for the delivery of candidates' returns of election expenses, which is calculated as 28 calendar days after the day of election.

4. Absent Voting

New postal vote applications or applications to change a postal vote to a proxy vote (or vice-versa), or to have a postal ballot paper sent to a different address, or to cancel a postal must be made to the Electoral Registration Officer at Cardiff County Council, County Hall, Atlantic Wharf, Cardiff CF10 4UW by **5 pm on the eleventh day before Election Day**. New or amended proxy applications must be made by **5pm on the sixth day before Election Day**.

5. Nomination Procedures

This guidance reflects the changes introduced by Local Elections (Communities) (Wales) Rules 2021.

It is important that nomination papers are completed correctly. Previously Community Clerks would arrange to distribute and oversee the completion of nomination papers. **Candidates can now submit their papers electronically. Online submission to Elections@cardiff.gov.uk. They can still be delivered by hand.**

It is the responsibility of each Candidate and not the Community Clerk, to ensure that their papers are submitted to the Returning Officer before the deadline specified within the statutory election timetable. It is also recommended that candidates read the guidance issued by the Electoral Commission <https://www.electoralcommission.org.uk/i-am-a/candidate-or-agent/community-council-elections-wales> and any additional information the Returning Officer provides. Any papers which are incomplete, incorrect or received after the close of

nominations cannot be accepted as valid. It is important that nomination papers are completed correctly. The following information can be used as a guide:-

Each candidate must be nominated on a separate **Nomination Paper** for the Community Council (including the ward, where applicable) they wish to stand.

The Nomination Pack, will contain the following –

1a: Nomination Paper

Section 2 - Candidate's personal details (the candidate should complete the following)

- their **full name**
- **commonly used name** (optional) if they are known by a name that is different in any respect from their actual name and they want to use this instead, they need to state this and it will appear on the ballot paper
- **date of birth**
- **description** party candidates can use a **party's name or party's registered description** with the Electoral Commission. If a registered party name does not include 'Wales' or 'Cymru' or 'Welsh' or 'Cymreig' then the registered party name may be supplemented with 'Wales' or 'Cymru' or 'Welsh' or 'Cymreig' in the description box. Other candidates can only use '**Independent**' and/or '**Annibynnol**' or leave this **blank**
- **candidate's statement of party membership** they must indicate whether they have been a member of any registered political party at any time during the period of 12 months ending with the day on which the notice of election is published. However, they only add this if they have been a member of a political party other than the one they have provided a description for on their nomination paper.
- **declaration** sign and date the document and declare that they are eligible and qualified to stand. They must not sign the document if they are disqualified to stand. If they are not sure if they are able to stand they should contact their employer (where relevant), consult the legislation or, if necessary, take their own independent legal advice.

Qualifications for Candidature:

To be qualified to be elected a member of a Community Council, a person must be 18 years of age or over at the date of their nomination, a British citizen, an eligible Commonwealth citizen, a citizen of any member state of the European Union or a qualifying foreign citizen. They also must meet at least one of the following four qualifications:

- they are, and will continue to be, registered as a local government elector for the community in which they wish to stand from the day of your nomination onwards.
- they have occupied as owner or tenant any land or other premises in the community area during the whole of the 12 months before the day of their nomination and the day of election.
- their main or only place of work during the 12 months prior to the day of their nomination and the day of election has been in the community area.
- they have lived in the community area or within three miles of it during the whole of the 12 months before the day of their nomination and the day of election.

They should tick all that apply.

Further information is available on the EC website

<https://www.electoralcommission.org.uk/sites/default/files/2022-01/Part%201%20Can%20you%20stand%20for%20election%20Community%20LGW.pdf>

- **candidate's signature to nomination paper and attestation by witness** they should sign and date the document in the presence of a witness and the witness must also sign and date the form.

It is good practice for the Community Council Clerk not to witness the nomination paper or advocate the election of any particular candidate. Strict impartiality will avoid any possible accusation of bias.

1b: Candidate's home address form (the candidate should complete the following)

- their **full name**
- their **home address** (in full)
- their **qualifying address**, or **qualifying addresses**, to each of the relevant qualifications they have ticked on the nomination paper
- the **full name** and **home address in full of the person who will witness their nomination form**. The home address form will not be accepted without this information
- also **complete part 2** of the form if they do not want to have their home address printed on the ballot papers, giving the name of the relevant area – this is the county or county borough which their home address is in – or, where outside the UK, the country, in which their home address is situated, and **sign the form**

Form 2: Certificate of authorisation and 3: Request for a party emblem (to be completed by those candidates standing for a party. The party's may provide their own forms)

Campaigning and Expenditure:

Election campaigning can be carried out as soon as a person declares himself/herself to be a candidate. All election publicity must carry an imprint with details of the **full name and full postal address of the printer and promoter** of the material. The name and address of any person on whose behalf the material is being published must also be included, if this person is not the promoter. The following provides further information

<https://www.electoralcommission.org.uk/sites/default/files/2021-08/Candidates%20imprints%20factsheet%20EWNI.pdf>

Candidates are subject to limits on what they spend during the regulated period in advance of an election. The limit for the local government elections is £806, plus 7p per local government elector in the Community (or Community Ward if warded). A record (and receipts) for any expenses incurred should be kept, as towards the end of the election process, each candidate must, by law, complete and return their Election Expenses. **No reimbursement of expenses can be made by Cardiff County Council to candidates** – it is merely a record which is available for public inspection.

6. Statement of Persons Nominated

Not later than 4pm on the eighteenth day before election day, the Returning Officer is required to publish a **statement of persons who stand nominated** and of the reasons why any other persons nominated no longer stand nominated. A copy of this statement will be sent to the Community Clerks for display locally. A copy of the notice will also be published on Cardiff's County Council's website.

7. Withdrawal of Candidature

A candidate may withdraw his or her candidature if, not later than 4pm on the nineteenth day before the Election Day, he or she delivers at the place fixed for the delivery of nomination papers a **notice of withdrawal** signed by him or her, and attested by one witness.

Please note the deadline to submit nominations and withdraw is the same. Please refer to election timetable.

8. Appointment of Polling and Counting Agents

A candidate may appoint polling agents to detect personation at a polling station and counting agents to observe at the count. A polling agent is **not** the same as a 'teller' (a candidate's helper who takes the numbers of electors leaving the polling station), who has no official standing and is **not** allowed to enter the polling station except to vote. **Candidates must provide details of the names of those attending the count by the deadline given. Further information will be provided to the Candidate at the appropriate time.**

9. Uncontested Elections

If the number of people remaining validly nominated after any withdrawals does not exceed the number of Councillors to be elected, such people will be declared to be elected as soon as possible after the latest time for the delivery of withdrawals. The Returning Officer will give notice of their names to the Community Clerk and to the public.

However, people elected in these circumstances do not take office until four days after the day of election (see paragraph A.1) except in the case of a by-election where an unopposed candidate will take office immediately after they have been declared to be elected (which is after the latest time for delivery of the close of withdrawals) Local Elections (Parishes and Communities) (England and Wales) Rules 2006 which state (Rule 50 (2)).

If there are not enough candidates to fill all the vacancies, the Representation of the People Act 1985, Section 21 allows the elected members, provided there is a quorum (i.e. – one third of the whole number of members with a minimum of three) to co-opt members to fill the remaining vacancies. Please refer to Section B 5 for advice on co-option.

If the Community Council fails to exercise the power to co-opt within seven weeks (35 days computed as under paragraph A.3) or if there is no quorum, Cardiff County Council may order a fresh election to properly constitute the Community Council.

10. Contested Elections – Declaration of Result

When the result of the poll is known, the Returning Officer or the appointed Deputy will:-

- (a) declare to be elected the candidate(s) to whom more votes have been given than to the other candidates, up to the number of Councillors to be elected.
- (b) give notice of the name of each candidate elected to the Community Clerk.
- (c) give public notice of the name of each candidate and of the total number of votes given for each (whether elected or not) together with the number of rejected ballot papers.

11. Election Expenses and Supplied Registers

At the end of the election period, even if no poll has taken place, each Candidate (whether successful or not) **MUST** submit a Statement of Election Expenses/ Declaration to show the expenses (if any) incurred as part of their election campaign. These documents are available for public inspection and failure to return one (even if it is a 'Nil Return') is a reported electoral offence.

Any Register of Electors supplied to a Candidate (who is not elected) must be returned to the Returning Officer after the election period.

12. Declaration of Acceptance of Office

A person elected to the office of a Community Councillor shall:-

- (a) in the case of the Chair, at the meeting at which they are elected; or
- (b) in the case of a Councillor, before or at the first meeting of the Community Council after their election; or
- (c) in either case if the Council at that meeting allows, before or at a later meeting fixed by the Council.

make in the presence of a member of the Council or of the proper officer of the Council a **Declaration of Acceptance of Office** (see Appendix 1).

Failure to do so will mean their office will become vacant (Local Government Act 1972, Section 83). The person making the declaration is now required to observe the Code of Conduct adopted by the Community Council.

13. Annual Meeting

A Community Council must hold an annual meeting each year on any day in May they choose.

Except in the year when ordinary elections are held for all Councillors, when the annual meeting must be held on, or within fourteen days after, the day the new Councillors take office (i.e. the fourth day after the day of the election (usually a Monday)).

B. FILLING OF CASUAL VACANCIES

Casual vacancies will be filled either by election or co-option. Below is a step-by-step guide to help Community Clerks.

1. The Vacancy

Firstly, the Community Council must advertise the vacancy. This should be done by displaying a notice, similar to the notice in Appendix 2. The notices should be displayed in places that are as conspicuous as possible within the Community and a copy of the Notice sent **immediately** to the Returning Officer, Cardiff County Council, County Hall, Cardiff, CF10 4UW. The Community Council may also advertise the vacancy in any other manner they wish. **(Please make sure you inform the Elections Office of any vacancies – Tel: 02920 872034).**

It is important to complete the Notice correctly, paying particular attention to the dates on the Notice and must be displayed for 14 days from the date of the Notice. The 14 days must not include weekends, public holidays and so on.

2. Filling the Vacancy by Election

During the 14 days of the Notice being displayed, ten electors from within the Community or Ward of the Community can call for an election to be held. To do this they will need to make their request in writing to the Returning Officer, Cardiff County Council, County Hall, Cardiff CF10 4UW. A sample election request form is in Appendix 3.

In the event of this happening, the Community Clerk will be notified immediately. The Returning Officer will decide on the date of the election, which must fall within 60 working days (computed in accordance with Appendix 2) from the date of the Notice.

In the case of a casual vacancy occurring within six months before the day on which that Councillor would regularly have retired, an election is not held. The Community Council may co-opt a person to fill the vacancy and any vacancy not so filled shall be filled at the next ordinary election.

3. Official Poll Cards

Where the poll at a Community election is not combined with another type of election, the Community Council may, not later than noon on the nineteenth day before election day, request the Returning Officer to issue poll cards for that election.

An estimate of the cost of the election will be supplied on request.

Where a Community election is combined with a Cardiff County Council election, the poll cards will be issued for the County election but refer to the Community election taking place on the same day.

4. Filling the Vacancy by Co-option

If an election is not requested, the Community Clerk will be notified that the Community Council must co-opt a member to fill the vacancy as soon as practicable. The Council may co-opt whoever it pleases to fill a casual vacancy. However, that person must be qualified. Please refer to the section below.

There is a requirement under Section 116 of the Local Government Measure (Wales) Act 2011 (Appendix 4) to give public notice where vacancies in Community council membership are to be filled by co-option. Please find attached (Appendix 5) statutory guidance issued by Ministers. Please read this guidance in full and we must stress the importance.

If the number of casual vacancies leaves the Community Council without a quorum, Cardiff County Council will order an election to be held and in the meantime may by order appoint people to fill all or any of the vacancies until other Councillors are elected and take up office.

5. Co-Option, Best Practice

- (i) Councils will wish to consider the most appropriate and cost-effective means of giving publicity to opportunities for co-option, but the placing of a notice on the council's notice board alone is unlikely to be adequate in most cases. This may be supplemented by the promotion of co-option on council websites; councillors' or council's Facebook page or Twitter feeds, letters to local organisations, as well as through the local press. (paragraph 3.14 Statutory Guidance). Please refer to Appendix 6 for a specimen notice
- (ii) Set a date by which prospective candidates must write into the Chairman or Clerk to the Community Council expressing their interests in these casual vacancies.
- (iii) The item of co-option should be placed on your Council agenda for the meeting.
- (iv) For the sake of greater transparency it would be best if the co-option takes place in public. It follows that the candidates, as members of the public, will be entitled to be present during the proceedings.

It is permissible to move into closed session. Should you wish to do so then the council must formally resolve to do so and specify the reason for so doing. Clearly, it is best that such business is handled at the end of the meeting so that any members of the public present are not asked to leave the meeting and then return.

- (v) The prospective candidates must fulfil the same criteria requirements as those for qualifications for candidature for an election.
- (vi) When the item is reached, the Chairman should call for nominations, which should be duly proposed and seconded.
- (vii) Candidates can be either interviewed or their letter of interest read out to a Community Council meeting.
- (viii) When all the nominations have been received a vote should be taken. It is usual for the candidates' names to be put in alphabetical order. 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 he/she may exercise his/her casting vote. Members must vote by show of hands unless the council has standing orders that provides otherwise.

- (ix) A successful candidate should have received an absolute majority vote of those present and voting.
- (x) It follows that if there are more than two candidates for one vacancy and no one of them at the first count receives a majority over the aggregate votes given to the rest, steps should be taken to strike off the candidate with the least number of votes and the remainder should then be put to the vote again; this process should, if necessary, be repeated until an absolute majority is obtained.
- (xi) 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 should be filled by a separate vote or series of votes.
- (xii) After the vote has been taken, the Chairman should declare the candidate who received the highest number of votes duly elected.
- (xiii) The person elected must make a declaration of acceptance of office before, or at, the first meeting of the Community Council following his election in the presence of a member of the Community Council or the Proper Officer of the Community Council.

Note: There is nothing preventing Councillors from approaching persons to offer themselves for co-option or even advertising for co-optee applicants. Applications might also be invited to provide a written “application” or invited to speak to the council prior to any voting. If such arrangements are to be applied, they should be carefully drafted and provided to applicants. It is imperative that all applicants are treated alike in order that the arrangements are seen as fair. Applicants under such arrangements should be discouraged from any personal lobbying.

6. Insufficient Nominations

Where an election has been requested to fill a casual vacancy and there are insufficient nominations, a further election will have to be arranged and held within 35 computed days (Representation of the People Act 1983, Section 39(1)) of the date of the original election.

7. Term of Office

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.

DECLARATION OF ACCEPTANCE OF OFFICE

I,

having been elected to the office of *

HEREBY DECLARE that I take that office upon myself, and will duly and faithfully fulfil the duties of it according to the best of my judgment and ability.

I undertake to observe the code of conduct, which is expected of members of..... **Community Council**

Date (Signed)

This declaration was made and signed before me

(Signed)

Member or Proper Officer of the Council of the

.....

**** insert Chairman of the Community Council or Community Councillor, as appropriate.***

Community council arms / logo

**NOTICE UNDER LOCAL GOVERNMENT ACT, 1972
(Section 87(2))**

**VACANCY FOR A
COUNCILLOR**

PUBLIC NOTICE IS HEREBY GIVEN

that a casual vacancy has occurred in the office of Councillor for the.....Ward of the Community offollowing the resignation/death on of Councillor

- 1 Rule 5(2) of The Local Elections (Parishes and Communities) (England and Wales) Rules, 2006 now applies.
- 2 The rule allows **TEN ELECTORS** for the Community [ward] in which the casual vacancy has arisen to request the Returning Officer to hold an election to fill the vacancy. * That request must be made within **FOURTEEN DAYS**, calculated in accordance with the rules,** of the date of this notice. The fourteen-day period ends on
- 3 If no request is made the Community Council must, as soon as practicable after the expiry of the fourteen-day period, co-opt a person to fill the vacancy.

The Returning Officer's address is Cardiff County Council, County Hall, Cardiff CF10 4UW and the telephone number for further guidance is 02920 872034

Dated:

Clerk to the Council

* There is no form of words for this request, which might simply be a letter headed with such words as "We the undersigned being electors for the [Ward of] ... Community, call for an election to fill the vacancy arising from the [death] [resignation] of ...". It is helpful if the ten signatures are accompanied by printed names and addresses

** In calculating the notice period, day one is the day following the date of this notice; a Saturday, Sunday, Christmas Eve, Christmas Day, Good Friday or a Bank Holiday or day appointed for public thanksgiving or mourning shall be disregarded, and the period closes at midnight on the fourteenth day after the date of this notice. Rule 5(2) of The Local Elections (Parishes and Communities) (England and Wales) Rules, 2006 now applies.

APPENDIX 3

REQUEST FOR AN ELECTION

We are ten Local Government electors for the Community of

We request that an election be held to fill the casual vacancy in the office of Community Councillor caused by
as published in the notice dated.....

	Print Name	Signature	Address	Office Use
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				

Dated.....

To : Returning Officer
Cardiff County Council
County Hall
Cardiff
CF10 4UW

LOCAL GOVERNMENT MEASURE (WALES) ACT 2011

CHAPTER 3 CO-OPTION OF MEMBERS OF COMMUNITY COUNCILS

SECTION 116 Requirement of public notice where vacancies in community council membership are to be filled by co-option

(1) This section applies to the following functions—

(a) the power of members of a community council under section 21(2)(a) of the Representation of the People Act 1985 to co-opt a person to fill a vacancy in the membership of the council (power to co-opt in the event of insufficient nominations to fill vacancies in respect of which an election is held);

(b) any power or duty of a community council under rules made under section 36(2) of the Representation of the People Act 1983 to co-opt a person to fill a casual vacancy in the membership of the council.

(2) A function to which this section applies must not be exercised unless public notice of the vacancy or vacancies in question has been given.

(3) The public notice must be given—

(a) in the case of the power to co-opt referred to in subsection (1)(a), by any one of the members of the community council authorised for that purpose by a majority of the other members;

(b) in the case of the power or duty to co-opt referred to in subsection (1)(b), by the community council.

(4) Section 232 of the Local Government Act 1972 (public notices) applies to the giving of a public notice by a member of a community council under subsection (3)(a) as it applies to the giving of a public notice by a community council under subsection (3)(b).

(5) The public notice must contain—

(a) contact details of an 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;

(b) such other information as—

(i) in the case of a notice under subsection (3)(a), the members of the community council consider appropriate, and

(ii) in the case of a notice under subsection (3)(b), the community council considers appropriate, and

(c) such other information as is required to be included in the notice by any regulations made by the Welsh Ministers.

SECTION 117 Guidance about giving public notice of co-option

(1) In exercising functions under subsections (2) to (5) of section 116, the members of a community council and a community council must have regard to guidance given by the Welsh Ministers.

(2) The reference to functions in subsection (1) includes a reference to functions under section 232 of the Local Government Act 1972 in relation to a notice required to be given under section 116(2).

Please see attached

COMMUNITY COUNCIL

**Local Government (Wales) Measure 2011, Section 116
Notice of Co-Option**

NOTICE IS HEREBY GIVEN that the Community Council intends to Co-optmember(s) to fill the vacancy(ies) that exist in the office of Councillor for the Community (Ward).

Expressions of interest are being sought from members of the public who meet the following qualifications and are interested in representing their community on the aforementioned Community Council. You must be a British citizen, an eligible Commonwealth citizen, a citizen of any member state of the European Union or a qualifying foreign citizen and be 18 years of age or over; and meet at least one of the following criteria:

- registered as a local government elector for the area named above; or
- during the whole of the last 12 months occupied as owner or tenant land or other premises in the community named above; or
- your principal or only place of work during the last 12 months has been in the community named above; or
- you have during the whole of the last 12 months resided in the Community or within 4.8 kilometres of it.¹

If you wish to be considered for co-option for the vacant seats(s) or want more information regarding the role of a Community Councillor please contact the Proper Officer, Clerk to the Council on/at
.....by (deadline).....

Dated this.....day of 20

¹ Certain people are disqualified from standing, and these include paid officers of the community council, anyone subject to bankruptcy restriction orders and those subject to recent sentences of imprisonment.

