

Subject: Fw: Co-option when there is only one candidate

From: "Clerk Appletonwiske" <clerk@appletonwiske.com>

Sent: 08/11/2023 05:49:18

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----- Forwarded Message -----

From "YLCA Admin" <admin@yorkshirelca.gov.uk>

To

Date 07/11/2023 12:22:54

Subject Co-option when there is only one candidate

SHEENA SPENCE
CHIEF OFFICER
YORKSHIRE LOCAL COUNCILS ASSOCIATIONS

Dear Clerks,

CO-OPTION WHEN THERE IS ONLY ONE CANDIDATE

We have had a number of enquiries about this since we published our October edition of Law and Governance. In that edition we conveyed the advice of the solicitors that are employed by the National Association of Local Councils regarding the situation where there is one qualified candidate for co-option to one seat. This advice is given in NALC Legal Topic Note 8, as written by the solicitors.

The relevant legislation is:

The Local Elections (Parish and Communities) (England and Wales) Rules 2006 SI 2206/3005, para 5:

*(5) Subject to paragraph (6) below, where a casual vacancy in any such office is not required to be filled by election, the parish or community council **must**, as soon as practicable after the expiry of the period of 14 days referred to in paragraph (2)(c), co-opt a person to fill the vacancy.*

The legal opinion of the NALC solicitor team is that, applying the strict letter of the law, and assuming that it is not within six months of the next local elections, the parish council **must** fill the vacancy by co-option '**as soon practicable**'. It is therefore difficult to see how a council could refuse to co-opt any legally qualified person given the wording of the Rules (as stated above), without leaving the council open to legal challenge.

Yours sincerely,
Sheena.

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OPEN FOR BOOKING
Talking Tables Training Day

(Sponsored by Breakthrough Communications, Parish Online and Blachere Illuminations) on Friday 10 November 2023, at The Bridge Hotel & Spa, Walshford, Wetherby, LS22 5HS. The programme is available on the YLCA website and has been sent to YLCA members.
