

**WATER MANAGEMENT ALLIANCE**

# **ELECTION OF MEMBERS POLICY**

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## **BOARD MEMBERS**

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**Review date: December 2020**

**To be reviewed every 5 years**

**Next review date: December 2025**

**Reviewed by: WMA Consortium Management Committee**

**Adopted by:**

Broads Internal Drainage Board  
East Suffolk Internal Drainage Board  
King's Lynn Internal Drainage Board  
Norfolk Rivers Internal Drainage Board  
South Holland Internal Drainage Board  
Waveney, Lower Yare and Lothingland Internal Drainage Board  
Pevensey and Cuckmere Water Level Management Board

If for any reason whatsoever the place of an elected member becomes vacant before the end of their term of office, the Board has a legal duty to fill the vacancy by electing a new member, providing the unexpired portion of the term of office of the vacating member is not less than six months, in accordance with Schedule 1, Part 3, Section 10 of the Land Drainage Act 1991. The purpose of this policy is to set out how the Board will go about electing a new member when a casual vacancy arises in its directly elected membership or where one or more of the retiring members in an Election of Members is unable to be reappointed for any reason whatsoever.

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## **ELECTION OF MEMBERS POLICY**

### **1. What is the purpose of this policy?**

- 1.1. If for any reason whatsoever the place of an elected member becomes vacant before the end of their term of office, the Board has a legal duty to fill the vacancy by electing a new member, providing the unexpired portion of the term of office of the vacating member is not less than six months, in accordance with Schedule 1, Part 3, Section 10 of the Land Drainage Act 1991.
- 1.2. If we do not receive at least the same number of valid nominations for any electoral division in an Election of Members, the shortfall will be made up by reappointing the required number from the retiring members, as per Regulation 17 of the Land Drainage (Election of Drainage Boards) Regulations, 1938 (SI 1938 No.558). However, if one or more of the retiring members is unable to be reappointed for any reason whatsoever or the Returning Officer is compelled to re-elect one or more of the retiring members by lot, the Returning Officer will request the Board to fill the vacancies at the earliest opportunity after the Election, in accordance with this policy.
- 1.3. The purpose of this policy is to set out how the Board will go about electing new members when such vacancies arise in its elected membership (hereinafter referred to as casual vacancies).

### **2. Which type of Board Member does this policy apply to?**

- 2.1. This policy applies to elected members only: i.e. to any Board member, other than those members that have been appointed by the constituent Billing Authorities (both individually and jointly).
- 2.2. The number of elected members to which this policy applies is set out in the Board's Constitution.

### **3. When can a casual vacancy in the elected membership occur?**

- 3.1. A casual vacancy in the elected membership can occur if for any reason whatsoever the place of an elected member becomes vacant before the end of their term of office. Moreover Schedule 1, Part 3 of the Land Drainage Act 1991 expressly states that such a vacancy will occur when:
  - An elected member resigns by giving notice to the Chairman of the Board.
  - An elected member is absent from Board meetings for more than six months consecutively unless their absence is due to illness or some other reason approved by the Board.
  - An elected member is adjudged bankrupt, the estate of such a member is sequestrated, or the member makes a composition or arrangement with, or grants a trust deed for, their creditors.

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### 4. How will the Board go about filling a casual vacancy in the elected membership?

- 4.1. All casual vacancies in the elected membership will be advertised, inviting suitably qualified individuals to apply. A members' application pack will be made available to all prospective applicants on request, which will include details of the role and responsibilities of elected members.
- 4.2. All applications must be made in writing and addressed to the Chairman of the Board.
- 4.3. The Board's Chairman's Committee will consider all applications received before the closing date, as advertised. The Board's Chairman's Committee will then draw up a shortlist of candidates for interview if the Committee deems this to be appropriate.
- 4.4. The Board's Chairman's Committee will make a recommendation to the Board as to who should be elected to fill the casual vacancy
- 4.5. The Board will then decide whether or not to elect the candidate recommended by its Chairman's Committee, in accordance with the Reserved Matters. All recommendations for election as a new member of the Board must be proposed and seconded, and the decision will be recorded in the Board's minutes, in accordance with the Standing Orders. The minutes (when confirmed) will be published on the Board's Minutes page of the Group's website.
- 4.6. If the Board does not approve the recommendation made by its Chairman's Committee, then other candidates who applied to be an elected member will be considered for election by the Board before any decision is taken to re-advertise.
- 4.7. If the Board decides to re-advertise the vacancy, then the selection process as outlined above will start again. The Board will provide feedback to unsuccessful candidates, should this be requested.
- 4.8. If, after following the selection process as outlined above, the Board is not able to find a suitable candidate to fill the vacancy, the Board will consider making an application to the Secretary of State through the Environment Agency's Regional Flood and Coastal Committee to reduce the number of its elected members, in accordance with section 3(5) and (7) of the Land Drainage Act 1991.
- 4.9. The newly elected member must sign and agree to abide by the Members' Code of Conduct and acknowledge their duties and responsibilities as an IDB member. The newly elected member must also register all dis-closable interests and undergo an induction, in accordance with the Members Training and Induction Programme. All Registered Interests will be published on the Board Members webpage of the Group's website.

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### 5. Can the Board's decision to elect a member to fill a casual vacancy be challenged?

- 5.1. No. The process of electing new members as set out above is distinctly different from the recruitment process when employing people. Prospective candidates are not therefore protected by the Employment Rights Act 1996 etc. when applying for Board membership.
- 5.2. If an individual feels as though their application for membership has not been considered fairly, they may make a complaint in the manner set out in the Board's Complaints Procedure. If, after having exhausted the Board's Complaints Procedure the applicant remains unhappy, then they may complain directly to the Local Government Ombudsman. However, it is important to note that once the Board has made its decision to elect a new member, this decision cannot be over-turned. The applicant will need to stand for election together with all the elected members, at the next available opportunity (assuming they are eligible to do so, as prescribed by the legislation and in accordance with the regulations).

### 6. How long will my term of office be for, if I'm elected by the Board to fill a casual vacancy?

- 6.1. A person so elected by the Board to fill a casual vacancy will hold office as long as the vacating member would have held office. This unexpired period of office will also depend on whether the vacating member is one of the first members of a newly constituted or reconstituted Board that have been appointed by the DEFRA Secretary of State, or whether they have been democratically elected by drainage ratepayers.
- 6.2. The first members of a newly constituted or reconstituted Board are appointed by the DEFRA Secretary of State and will hold office until the end of one year from 1 November next, following the day on which they are appointed. IDBs are currently exempt from the Office of the Commissioner for Public Appointments Code of Practice for Ministerial Appointments to Public Bodies. Therefore in the event of the Board being merged with another IDB or reconstituted, the Board will provide DEFRA with a list of members that have been selected as a result of a democratic process and will then request that the Secretary of State appoints them as its first members accordingly.
- 6.3. An election of members takes place triennially thereafter, in accordance with Schedule 1, Part 1 of the Land Drainage Act 1991 and the Land Drainage (Election of Drainage Boards) Regulations 1938, as amended by the Land Drainage (Election of Internal Drainage Boards) (Amendment) Regulations 1977. The date of the next election is shown on the Board's Elections page of the Group's website.
- 6.4. Elected members take office on 1 November next, after the day on which they are elected for a term of three years.