



**Question:**

Is there any update on what happens next with the by-election after polling was closed due to anti-social behaviour? Who is responsible for this process?

**Answer:**

Although the by-election is to elect members to Ackworth Parish Council, the process is run independently by Wakefield District Council, other than allowing use of buildings on polling day, Ackworth Parish Council do not have any role in this process.

Since last Thursday, Wakefield District Council have been reviewing the situation. Ackworth Parish Council and the three candidates involved were invited to an online meeting on Monday 17<sup>th</sup> June at 5.30pm to discuss next steps. Following that meeting, the following information was released by Gillan Marshall, Chief Legal Officer for Wakefield District Council.

Ackworth Parish Council will continue to support Wakefield District Council in working towards a resolution of this matter.

*“Last Thursday, incidents of serious criminal anti social behaviour disrupted the parish by-election. This level of behaviour and disruption is unprecedented in Wakefield and, as far as we can establish, nationally. We are sorry that we had to take this unprecedented step.*

*The situation we found ourselves in is not covered by electoral law. Whilst there are provisions to countermand an election if there is a death of a candidate on polling day and the Presiding Officer can adjourn to the next day in the event of a riot (as defined by the police), there are no provisions for the position where the Returning Officer (RO) has a conflict of legislation.*

*As you are aware, RO is personally responsible not only for the running of the election, but for the staff he employs to do so. He owes a legal duty of care to them for their safety and welfare. We had to make a decision based upon the risk to the staff and electors and in all the circumstances we deemed it unsafe to continue last Thursday.*

*It is our view that the responsibility for what happened lies with those who actively chose to behave that way and not with anyone else.*

*We made every effort made to continue to run the election. The incident lasted at least 3 hours and escalated during that time. We sent security to the location and called for police assistance. The RO is liaising personally with Chief Constable about the response and what could have been done differently to enable the election to continue. Both of us are committed to ensuring this never happens again.*

*Having made the difficult decision to stop the election, we believe that the fairest way is to re-run the election as closing the polling stations early may have impacted the result.*

*Since Thursday we have liaised with the Electoral Commission and taken advice from Tim Straker KC, an acknowledged expert in these matters. The RO cannot void the election for it to be re-run – only a Court can do that following an election petition. A*

*petition can only be made after a result is declared. For that reason we need to count the votes that were cast and we will do this tomorrow afternoon. **The Count will take place at 2pm at County Hall Wakefield.** Candidate are entitled to attend. We will also favourably consider requests for other observers if the candidate cannot attend in person.*

*Any Election Petition must be made within 21 days of the result being declared. Any candidate can petition or any group of 4 electors who were entitled to vote whether they did vote or not. There are Court fees of approx. £2000 to be paid, £650 of those on issuing the petition. Further information about petitions can be found online at the gov.uk website. Based upon advice, if a petition is made we expect that the Court would decide to re-run the election but that this decision would not be made for some months (into the Autumn). In the interim the elected Councillors would take up office. The Court is likely to order the Returning Officer to pay the legal costs of a successful petitioner, but this is at their discretion.*

*If no petition is presented the result would stand.*

*An alternative option which the candidates may wish to consider is that if the two elected councillors accept their office on Wednesday 19 June and then resign immediately, the resultant vacancies would need to be filled. If an election is called this would allow the process to be re-run without the need for a petition. If that happens we calculate we can hold the election on 15 August. That relies on the Clerk signing and displaying the notice on 20 June. The Council will only pass on the costs of one election to the parish if that is the mechanism chosen by you to enable the process to be re-run.”*