

Agenda Item 11 CO-- OPTION POLICY

Summary

To seek Council approval to the adoption of a formal policy for dealing with Co-option of Councillors

Background

There is no statutorily prescribed procedure for dealing with the co-option of a Councillor on those occasions when we are short of our prescribed number of Councillors (11) but where the public has not called for an election. At a recent meeting to co-opt Councillors it was clear that we had never adopted any policy setting out the formal arrangements that we wished to use for these purposes. There was no application form and initially no process undertaken to ensure that applicants actually qualified for co-option as required by law. So that Members can properly understand the process, and what is expected of them on occasions when we may need to co-opt, it would be helpful for Members to have a policy as an aide memoire prior to a co-option meeting. Such a policy will also assist prospective Councillors in understanding the process. The purpose of this report is to set out a suggested procedure for formal Council approval.

Legal requirements

Ss 79 and 80 Local Government Act 1972 (qualification for co-option); s89(6) Local Government Act 1972 (filling of vacancies)

Details

1. Statutory process

The co-option procedure is managed by the Parish Council, and this policy will ensure that a fair and equitable process is carried out.

Co-option of a parish councillor occurs in two instances:

1. When an ordinary vacancy has arisen on the Parish Council after the ordinary elections held every four years;
2. When a casual vacancy has arisen on the Parish Council and no poll (by-election) has been called.

An ordinary vacancy occurs when there are insufficient candidates to fill all the seats on the Parish Council at the ordinary elections held every four years. Any candidates who were nominated are automatically elected to the Parish Council and any remaining vacancies are known as "ordinary vacancies". Provided there are enough parish councillors to constitute a quorum, the Parish Council is usually able to co-opt a volunteer to fill the vacancies.

- A casual vacancy occurs when:
- A councillor fails to make his declaration of acceptance of office at the proper time;
- A councillor resigns; or A councillor dies;
- A councillor becomes disqualified; or

- A councillor fails for six (6) months to attend meetings of a council committee or sub-committee or to attend as a representative of the council a meeting of an outside body.

The Parish Council has to notify the Borough Council of a casual vacancy and then advertise the vacancy and give electors the opportunity to request an election. This occurs when ten (10) electors write to the Borough Council stating that an election is requested. The Borough Council will organise that election and the Parish Council will pay the costs of the election. Electors have fourteen days (not including weekends, bank holidays and other notable days), to claim the by-election

If more than one (1) candidate is then nominated a by-election takes place but if only one (1) candidate is put forward they are duly elected without a ballot.

If ten (10) residents do not request a ballot within fourteen (14) days of the vacancy notice being posted the Parish Council is able to co-opt a volunteer.

The Clerk will:

- Advertise the vacancy for four weeks (other period as the Parish Council may agree) on the Parish Council notice boards and website
- Advise the Borough Council that the co-option policy has been instigated

This procedure will also apply in the case of an ordinary vacancy where the Returning Officer has confirmed that there were insufficient nominations to fill all the seats but there are sufficient parish councillors elected to constitute a quorum.

2. Eligibility of Candidates

The Parish Council is able to consider any person to fill a vacancy provided that:

- he/she is 18 or over; and o he/she is a British citizen, a qualifying Commonwealth citizen or a citizen of any other member state of the European Union (at the moment); and at least one of the following apply:
- he/she is an elector for the Parish and continues to be an elector; or o has resided in the Parish for the past twelve months or rented/tenanted land in the Parish; or
- has had his/her principal or only place of work in the Parish for the past twelve months; or
- has lived within three miles of the Parish for the past twelve months.

There are certain disqualifications for being a parish councillor, of which the main are:

holding a paid office or employment under the Parish Council;

- bankruptcy; o having been sentenced to a term of imprisonment (whether suspended or not) of not less than three months, without the option of a fine during the preceding five years; or
- being disqualified under any enactment relating to corrupt or illegal electoral practices.

3. Applications

Candidates will be requested to:

- Attend at least one Parish Council meeting as observers (to gain some understanding of process and Council business);
- Submit information about themselves, by way of completing a short application form (a copy of the application form is attached as Appendix A);
- Confirm their eligibility for the position of parish councillor within the statutory rules, (a copy of the eligibility form is attached as Appendix B).

Following receipt of applications, the next suitable Parish Council meeting will have an agenda item to receive written applications for the office of Parish Councillor and to co-opt a candidate to fill the existing vacancy. Eligible candidates will be invited to attend the meeting. Copies of the eligible candidates' applications will be circulated to all parish councillors by the Clerk at least 3 clear days prior to the meeting of the full Parish Council, when the co-option will be considered. All such documents will be treated by the Clerk and all parish councillors as strictly private and confidential.

4. Procedure at the Co-option meeting

At the co-option meeting, candidates will be given five minutes maximum to introduce themselves to the parish councillors, give information on their background and experience and explain why they wish to become a member of the Parish Council. The process will be carried out in the public session and there will be no private discussions between members prior to a vote being taken. However, where the Parish Council is discussing the merits of candidates and inevitably their personal attributes, this could be prejudicial, and the Parish Council should resolve to exclude the members of the press and public.

As soon as all candidates have finished giving their submissions, the Parish Council will proceed to a vote with each candidate being proposed and seconded by the councillors in attendance (as defined in the Standing Orders) and a vote by a show of hands (LGA 1972 Sch. 12. Para 13). A recorded vote may be requested under Standing Orders so as to show whether each councillor present and voting, gave his/her vote for or against that question. In order for a candidate to be co-opted to the Parish Council, it will be necessary for them to obtain an absolute majority of votes cast (50% + 1 of the votes available at the meeting). If there are more than two candidates and there is no candidate with an overall majority in the first round of voting the candidate with the least number of votes will drop out of the process. Further rounds of voting will then take place with the process repeated until a candidate has an absolute majority.

If present, a candidate who is co-opted will sign at the co-option meeting a Declaration of Acceptance of Office, including an undertaking to abide by the Parish Council's Code of Conduct, and may take office thereafter. If not present, a co-opted candidate will sign the Declaration of Acceptance of Office either before or at the next meeting of the Parish Council. The Clerk will notify the Borough Council's Returning Officer of the co-option of the new parish councillor(s).

The co-opted parish councillor will complete a Notification of Disclosable Pecuniary and Other Interests form which the Clerk will lodge with the Monitoring Officer at the Borough Council within 28 days of the co-option.

If insufficient candidates are co-opted, the process should continue, whereby the vacancies are again advertised.

Budget Implications

Whilst there will be the usual costs for the Borough Council to process any election this co-option procedure should incur minimal costs.

Risk Management Implications if any

This arrangement will ensure that the Council complies with its legal obligations and ensures transparency in its co-option procedure.

Recommendation

It is recommended that the procedure set out in this report be adopted

APPENDIX A - APPLICATION FORM

Name:

Address:

Telephone Number:

Email Address:

Are you 18 or over? Yes / No

Please detail any experience/particular attributes you may have that are relevant to Parton Parish Council (if necessary continue onto a separate sheet)

Is there any other information you would like to disclose regarding your application? (If necessary, please continue on a separate sheet).

Use of Personal Information

The Parish Council will use your information, including that which you provide on this application form, to assess your suitability to be a parish councillor.

Declaration & Consent

I have read the section entitled "Use of Personal Information" and by signing this form I consent to the use and disclosure of my information included in this application form. I declare the information given on this form to be true and correct.

SIGNED..... NAME.....

DATE.....

Please complete and return this form, together with the completed Co-option Eligibility Form to: The Clerk, Parton Parish Council, c/o [] - Tel: []
Email: []

Please note that under Section 80 of the Local Government Act 1972 a person is disqualified from being a parish councillor if he/she:

- a) Is employed by the parish council or holds paid office (other than chairman, vicechairman or deputy chairman) under the parish council (including joint boards or committees);
- b) Is employed by an entity controlled by the parish council;
- c) Is the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order or a debt relief restrictions order or an interim debt relief restrictions order; or
- d) Has within five years before the day of co-option, or since his/her co-option, been convicted in the UK, Channel Islands or Isle of Man of any offence and has been sentenced to imprisonment (whether suspended or not) for not less than three months without the option of a fine; or
- e) Is otherwise disqualified under Part III of the Representation of the People Act 1983 (relating to corrupt or illegal electoral practices and offences relating to donations) or the Audit Commission Act 1998.

APPENDIX B PARTON PARISH COUNCIL CO-OPTION ELIGIBILITY FORM

1. In order to be eligible for co-option as a Parton Parish Councillor you must satisfy certain criteria. You must satisfy (a) and (b) below and at least one of the options (c) – (f). Please tick which apply to you:

- a. I am 18 years of age or over; and
- b. I am a British citizen or a citizen of the Commonwealth or a citizen of any other member state of the European Union; and
- c. I am registered as a local government elector for the parish; or ☐ d. I have, during the whole of the twelve months preceding the date of my co-option occupied, as owner or tenant, land or other premises in the parish; or
- e. My principal or only place of work during those twelve months has been in the parish; or
- f. I have during the whole of those twelve months resided in the parish or within 3 miles of it.

Use of Personal Information The Parish Council will use the information provided on this form to assess your eligibility to be a parish councillor.

Declaration & Consent I..... hereby confirm that I am eligible for the vacancy of Parton Parish Councillor and I am not disqualified under s80 of the Local Government Act 1972 from being a parish councillor and that the information given on this form is true and correct. I have read the section entitled "Use of Personal Information" and by signing this form I consent to the use and disclosure of my information included in this form.

Signature..... Name.....

Date.....