

Funtington Parish Council

Co-option to Vacancies

Policy

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1. INTRODUCTION

Although the process for co-option to vacancies of local councils is not prescribed in law, NALC's Legal Briefing L15-08 (Original date of issue: 23 July 2008 Re- issued: 7 May 2015) provides guidance. Further guidance has been taken from 'Parish and Community Council Elections in England and Wales - Guidance for Candidates' developed by the Electoral Commission and last updated in January 2019.

Of paramount importance is that all applicants are treated alike so that the process is seen to be open, fair and transparent.

Whenever the need for co-option arises, Funtington Parish Council will seek and encourage applications from anyone who is eligible to stand as a Parish Councillor (see section 2). Councillors and parishioners may legally approach individuals and encourage them to register their expression of interest.

Any candidate(s) found to be offering inducements or any kind of undue pressure will be disqualified.

2. QUALIFICATION CRITERIA

Applicants must:

- be at least 18 years old
- be a British citizen, an eligible Commonwealth citizen or a citizen of any member state of the European Union

In addition, the candidate must meet one of four following qualifications:

- be registered as a local government elector for the parish;
- have occupied as owner/tenant any land or other premises in the parish during the whole of the 12 months before the day of nomination;
- have had a main or only place of work during the 12 months prior to day of nomination in the parish; or
- have lived in the parish or within 3 miles (4.8km) during the 12 months before the day of nomination.

3. DISQUALIFICATIONS

Apart from meeting the qualifications, disqualifications also apply. Candidates are disqualified if they:

- are they are employed by the parish council;

- are the subject of a bankruptcy restrictions order or interim order;
- have been sentenced to a term of three months imprisonment or more (including a suspended sentence), without the option of a fine, during the five years before polling day; or
- have been disqualified under the Representation of the People Act 1983, which covers corrupt or illegal electoral practices and offences relating to donations.

4. PROCESS

There are two ways that co-options may be necessary:

- There have been insufficient candidates to fill all of the available seats at an election; or
- A casual vacancy has arisen between elections, and there is no demand to hold a by-election.

In the event of a vacancy occurring due to the resignation, death or ineligibility of a Councillor, the Clerk will immediately inform the Monitoring Officer at Chichester District Council (CDC) and supply them with a copy of the Notice of Vacancy for posting.

Should the requisite 10 electors of the Parish not have called for a poll (by-election) within the legally specified time period (currently 14 days) following the publication of the Notice of Vacancy, the Parish Clerk is notified by CDC that the vacancy may be filled by co-option. The Parish Council may then proceed to co-opt as soon as practicably possible.

On receipt of written notification from the Monitoring Officer at CDC that a casual vacancy can be filled by means of co-option, the Clerk will place a notice announcing that the vacancy can be filled by co-option and invite expressions of interest. The notice will be placed on notice-boards, the Parish Council's website and via any social media deemed appropriate. It will include:

- details of where to obtain information on the role of a parish councillor; and
- where expressions of interest should be directed (usually the Clerk, via email or hard copy)

The Parish Council is not obliged to co-opt to fill any vacancy or to select anyone from the candidates that do apply. However, it is not desirable that electors of the Parish remain unrepresented for a significant length of time. A vacancy of any length may impact on the:

- effective and efficient working of the Parish Council;
- ability to share the workload equitably;

- provision of a broad cross-section of skills and interests; or
- ability to achieve the quorum for meetings without difficulty, given that some absence is unavoidable at times

When expressions of interest are received, the Clerk will provide all applicants with the Parish Council's Application & Eligibility Form (Appendix A). The Clerk will then consider completed forms to ensure that the individual(s) meets with the qualification requirements.

Copies of the applications will then be circulated to all Parish Councillors prior to the Council meeting at which the co-option is to be considered. Whilst Councillors cannot be prevented from discussing applications between themselves and/or with non-Council members, such behaviour is discouraged as this has the potential to influence the outcome of the final vote.

The Clerk will inform the co-option candidates of the date of the Parish Council meeting at which their application will be considered. Notice of the Intention to consider co-option will be included on the agenda as a separate item.

Candidates will be invited to the meeting to introduce themselves and speak in front of full Council (for no longer than five minutes) in support of their application. Councillors will be given the opportunity to ask questions of, and/or seek clarification from, the candidates.

4.1 Voting

In NALC's view, it would be difficult for a local council to argue that there are special reasons which justify excluding the public during a council meeting (s.1(2) Public Bodies (Admission to Meetings) Act 1960) when it is making decisions about a matter of public interest such as co-option. However, where the Council wishes to discuss the merits of candidate(s) and inevitably their personal attributes, this could be prejudicial, and the Council will resolve to exclude the members of the press and public for a short period. *Note: Decisions about co-option which are made at council meetings when the public has been excluded will not eliminate the need for a council to explain, for example to unsuccessful candidates, the reasons for its decisions*

Voting will be by a show of hands in front of the candidate. Only Councillors present at the meeting may vote and will each have one vote. A tie in votes may be settled by the casting vote exercisable by the chairman of the meeting. (Standing Order 8a)

If a Councillor is a relative of a candidate or has connections with any candidate which may be perceived as prejudicial, that Councillor should declare an interest and withdraw from the meeting. A vote by the Councillor concerned is not allowed.

4.2 After the vote

Any candidates that, for whatever reason, were not present will be notified of the results by the Clerk, as soon as is reasonably possible: usually within 24 hours. Successfully co-opted candidates become Councillors in their own right, with immediate effect, and are no different to any other member. As such, they must sign the Declaration of Acceptance of Office and Registration of Interests Form at their first meeting, or within 28 calendar days of a successful application; whichever is the sooner.

The successful candidate(s) will also confirm that they will comply with and abide by the Parish Council's Code of Conduct, as they will have indicated on their Application and Eligibility Form. Should the new Councillor not comply with or breach the Code of Conduct, then the Monitoring Officer at CDC will be advised and will deal with the matter.

The successful candidate's term of office runs until the next quadrennial elections for the Parish Council.

NOTE: This document is intended as a summary of the most relevant points of procedure and legislation, rather than a definitive exposition. Legislation covering casual vacancies can be found at The Local Elections (Parishes and Communities) (England and Wales) Rules 2006:
<http://www.legislation.gov.uk/uksi/2006/3305/article/5/made?view+plain>



COUNCILLOR CASUAL VACANCY APPLICATION FORM

Full Name:

Address:

.....

Telephone No:

Email:.....

Please briefly state why you would like to become a councillor.

Please provide a brief profile of yourself including details of any skills, experience or life experiences that you think would benefit for the Parish Council. (You may continue on an additional sheet if necessary)

Legal qualifications for being a Parish Councillor

To qualify you must be able to answer 'Yes' to both of the following questions:

1/ Are you a British or Commonwealth citizen or a citizen of a European Union country?

Yes No

2/ Are you 18 years of age or over?

Yes No

On the day of signing this form you must also be able to answer 'Yes' to at least one of the following questions: (tick appropriate box(s))

I am and will thereafter continue to be a local government elector for the area of the authority; or	<input type="checkbox"/>
During the whole of the twelve months preceding that day I have occupied as owner or tenant any land or other premises in the area; or	<input type="checkbox"/>
My principal or only place of work during that twelve months has been in the area; or	<input type="checkbox"/>
I have during the whole of those twelve months resided in the area; or	<input type="checkbox"/>
During the whole twelve months I have resided in the Parish or within 4.8 Kilometres (2.8 miles) of it.	<input type="checkbox"/>

Disqualification from being elected a member is set out in Section 80 of the Local Government Act 1972 - in basic terms you must not:

- (a) hold any paid office or employment (other than the office of chairman, vice chairman or deputy chairman) to which you have been appointed by the council or any committee or sub-committee of the council, or by a paid officer of the council, or by any joint committee on which the council is represented;
- (b) be the subject of a bankruptcy restrictions order, an interim bankruptcy restrictions order, a debt relief restrictions order or an interim debt relief restrictions order under Schedule 4ZB of the Insolvency Act 1986;

(c) have within five years before the day of election or since your election been convicted of any offence and sentenced to a term of imprisonment of at least three months (whether suspended or not) without the option of a fine;

(d) have been found guilty of corrupt or illegal practices in relation to elections including incurring unlawful expenditure and the court orders his disqualification.

I confirm that I meet the eligibility criteria listed above, and that I am not disqualified from being a member by virtue of Section 80 of the Local Government Act 1972 (as amended). I also confirm that to my best knowledge that the information that I have included within this form is correct.

Signature.....

Date.....

Please email your application to the Clerk, Viki Williams at: clerk@funtingtonpc.org or post to: 21 Pease Croft, South Harting, West Sussex, GU31 5LB