



Co-option Policy

Introduction

Section 87 (2) of the Local Government Act 1972 requires a local Council to give public notice of casual vacancies to ensure transparency and attract more candidates

The public notice given by the Council invites applications from candidates who satisfy the eligibility for being a Councillor.

Procedure

Casual Vacancy

A casual vacancy occurs following the resignation or death of a serving Member. Cheshire East Council is notified of the vacancy and a formal Notice of Vacancy is issued by the Electoral Services Team. The notice will be displayed for fourteen days during which ten Members of the parish can demand an election takes place. If called the by-election is then organised by Cheshire East Council. If an election is not called then the Parish Council will fill the seat by co-option

Vacancies after an election

If there are not enough candidates to fill the remaining vacancies the Representation of the People Act 1985, Section 21 allows the elected Members of Council, provided there is a quorum (i.e. one third of the whole numbers of Members with a minimum of three) to co-opt Members to fill the remaining vacancies.

Insufficient Candidates

If, following an ordinary election there are insufficient persons nominated to fill all the available seats, the Parish has a number of days from the date of the election (as advised by Cheshire East) to co-opt persons to fill those vacancies without the necessity of advertising for a potential by-election. If there are insufficient Councillors elected to form a quorum, the parish must advise Cheshire East Council who can either appoint persons to be parish Councillors or order another election. (See Section 39 (4) Representation of the People Act 1983 and section 21 (2) RPA 1985)

Vacancies without an election

If an election is not requested the Clerk will be notified that the Parish Council must co-opt a Member to fill the vacancy as soon as practicable. If the number of casual vacancies leaves the Parish Council without a quorum, Cheshire East will order an election to be held and in the meantime may by order appoint people to fill all or any of the vacancies until other Councillors are elected and take up office

Process

Any casual vacancy by co-option will be advertised on noticeboards within the Parish and via the Parish website and on social media for a minimum of four weeks

This will include a deadline for receipt of applications. The Parish Council can advertise/promote/approach individuals as they see fit, but any candidate who qualifies must be considered for co-option, i.e. be put to the vote, in the context of any agreed deadline

Eligibility

To be able to stand as a Councillor (Section 5 of the Local Government Act 1972), a personal must:-

- Be at least 18 years old
- Be a British citizen, an eligible Commonwealth citizen or a citizen of a Member state of the European Union, and
- Meet at least one of the following four qualifications:-
 1. Be a registered elector at the time of standing for election
 2. Have occupied as an owner or tenant of any land or premises within the Parish for the whole 12 months before their nomination
 3. Have their main or only place of work during 12 months on the day of nomination and the day of election within the Parish
 4. Have lived in the Parish or within three miles of it during the whole twelve months of their nomination

There are certain disqualifications for election of which the main are (Section 5 of the Local Government Act 1972):-

- Holding a paid or employed office of the Parish Council
- Subject of bankruptcy restrictions or interim order
- Have been sentenced to a term of imprisonment of three months or more including a suspended sentence without the option of a fine during five years before polling takes place
- Have been disqualified under the Representation of the People Act 1983 which covers corrupt or illegal electoral practice and offence relating to donations. The disqualification for an illegal practice begins from the date the person has been reported guilty by an election court of convicted and last for three years
- A person may also be disqualified from election if they have been disqualified from standing for election to the local authority following a decision of the First-Tier Tribunal formerly the Adjudication Panel for England

Applications

Candidates will be required to

- Submit an email or letter to the Clerk explaining why they are interested in joining the Parish Council and what skills and experience they would bring
- Meet with the Parish Clerk and/or the Chair to discuss any questions they have about the procedure for co-option, eligibility to serve or the role and responsibilities of a Parish Councillor

Co-option Process

- The Parish Council will consider the candidates for co-option to fill any vacancy at a Parish Council meeting
- Shortly before the start of this meeting the Clerk will report the names of the candidates to the Council at the meeting and distribute copies of any applications made by the candidates. Each candidate will be asked if they wish to make a short statement to the 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 Council is discussing the merits of candidates and inevitably their personal attributes, this could be prejudicial, and the Council should resolve to exclude the members of the press and public
- Declarations of interest must be made by Parish Councillors as each candidate is considered, (e.g. family ties, friendships, business relationships etc). This does not prevent Councillors from voting

Voting

- This must take place in a public meeting
- Only elected Councillors present at the meeting may vote; Each Councillor must vote. No Councillor may abstain
- If a Member is not at the meeting the legislation does not provide for a proxy or postal vote
- Even if there are fewer candidates than vacancies, each candidate must receive an absolute majority vote of those Members present at the meeting, no majority, no co-option. There is no “*co-opted uncontested*” provision within the law
- If there are more candidates than vacancies, the candidate with the least number of votes should be taken off the list of candidates, and if there are still more candidates than vacancies, the vote is taken again. This procedure should be repeated until the number of candidates equals the number of vacancies and each candidate has a majority vote
- The Chair may only use their casting vote if two successive voting rounds are stalemated

Declaration of Acceptance of Office

- Those co-opted must sign a declaration of acceptance of office before they join any meeting of the Council as a Member
- If the successful candidate is present at the meeting where the co-option is agreed they will sign the Declaration of Acceptance of Office and be able to participate in the meeting

Term of Office

A person elected, or co-opted to fill a casual vacancy holds office until the person in whose place they are elected or appointed would regularly have retired i.e. in an election year

Notification of Co-option

The Clerk will notify Cheshire East Council of the new Member appointment and the new Member must complete a Declaration of Disclosable Interest Form within 28 days of being co-opted. This must be sent to Cheshire East Council for formal confirmation