

# **BOUGHTON MONCHELSEA PARISH COUNCIL**

## **CO-OPTION TO VACANCIES POLICY**

### **1. Introduction**

- 1.1 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.
- 1.2 Of paramount importance is that all applicants are treated alike so that arrangements are seen to be open, fair and transparent. This policy sets out the process to be followed by Boughton Monchelsea Parish Council when co-option is under consideration.
- 1.3 Whenever the need for co-option arises, Boughton Monchelsea Parish Council will seek and encourage applications from anyone who is eligible to stand as a Parish Councillor (see section 3). Councillors and parishioners can legally approach individuals to suggest they might wish to consider putting their names forward for co-option and encourage them to register their expression of interest.
- 1.4 The Parish Council is not obliged to co-opt to fill any vacancy. Even if the Council invites applications for co-option, it is not obliged to select anyone from the candidates who apply.
- 1.5 Any candidate(s) found to be offering inducements or any kind of undue pressure will be disqualified.
- 1.6 It is not desirable that electors of the Parish be left partially unrepresented for a significant length of time; neither does it contribute to the effective and efficient working of the Parish Council if there are insufficient Councillors to share the workload equitably, provide a broad cross-section of skills and interests, or to achieve meeting quorums without difficulty, given that some absence is unavoidable at times. This must not be used as an excuse to co-opt however and, if necessary the vacancy will remain an agenda item until filled.
- 1.7 Councillors selected by co-option are full members of the Parish Council.

### **2. Co-option process**

- 2.1 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 Maidstone Borough Council (MBC) and supply them with a copy of the requisite Notice of Vacancy for posting.
- 2.2 Should the requisite 10 electors of the Parish have not 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 MBC that the vacancy(ies) may be filled by co-option. The Parish Council may then proceed to co-opt within 28 days or wait for a period of up to 6 months before proceeding.

2.3 On receipt of written notification from the Monitoring Officer at MBC that a casual vacancy can be filled by co-option, the Clerk will place a notice announcing that the vacancy(ies) can be filled and invite expressions of interest. The notice will be placed on the noticeboards and on the Parish Council website and Facebook page and will include a contact point so that people considering putting their names forward for co-option can obtain more information on the role of a Parish Councillor or express their interest in applying.

### **3. Qualifications / Disqualifications**

Qualification criteria :

Be an elector of the parish of Boughton Monchelsea; or

- Have resided in the parish for the past 12 months or rented / tenanted land or other premises in the parish; or
- Had their principal place of work in the parish; or
- Have lived within 3 (direct) miles of the parish

There are certain disqualifications for election (see section 5.80 of the Local Government Act 1972) of which the main are :

- Holding a paid office with the Council
- Bankruptcy
- Having been sentenced to a term of imprisonment (whether suspended or not) of not less than 3 months without the option of a fine during the 5 years preceding the election; and
- Being disqualified under any enactment relating to corrupt or illegal practices

### **4. Application process**

4.1 When expressions of interest are received, the Clerk will provide all applicants with the Parish Council's Application & Eligibility Form (Appendix A). The form is also available to download from the Parish Council website.

4.2 The Clerk will then consider completed forms to check that the individual(s) meets with the qualification requirements.

4.3 All candidates are asked to complete the Councillor Application & Eligibility Form (Appendix A) and copies will be circulated to all Parish Councillors with the agenda papers prior to a full meeting of the Council where the co-option is to be considered. All such documents will be treated by the Clerk and Councillors as strictly private and confidential.

4.4 Co-option candidates will be informed of the date of the meeting at which the Parish Council will make its decision based on the application form

submitted. Notice of the intention to consider co-option will be included on the agenda as a separate item at a Parish Council meeting.

- 4.5 Candidates will be invited to the meeting to speak in support of their application. It will also provide Councillors with the opportunity to seek, through the Chair, clarification on submissions within the application form that they are not sure of, or the Council may decide to rely on their written submission alone.
- 4.6 Only Councillors present at the meeting may vote upon a person to fill the vacancy. Councillors will have one vote per vacancy to be filled.
- 4.7 If a candidate is a relative of a Councillor or has connections with any candidate which may be perceived as prejudicial, that Councillor should declare an interest and withdraw from the meeting. Under any of these circumstances a vote by the Councillor concerned will not be allowed
- 4.8 If there are exactly as many as, or fewer candidates than vacancies, the Parish Council may, if it wishes, vote on a composite motion, duly proposed and seconded, that all candidates be co-opted. If there are more candidates than vacancies it will be necessary for existing Councillors present at the meeting to vote.
- 4.9 If there are more candidates than vacancies, Arnold Baker's 'Local Council Administration' recommends that :
  - i) Where more than two persons have been nominated for a position to be filled by the Council and none of those persons has received an absolute majority of votes in their favour, the name of the person having the least number of votes shall be struck off the list and a fresh vote taken. This process shall continue until a majority of votes is given in favour of one person. A tie in votes may be settled by the casting vote exercisable by the Chairman of the meeting.
  - ii) Where the Council is considering the co-option of a Councillor to fill a vacancy under s.89 of the Local Government Act 1972, it shall be under no obligation to accept any candidate
- 4.10 After the vote :
  - i) Any candidates that are not present at the meeting will be notified of the results by the Clerk as soon as is reasonably possible (usually within 24 hours)
  - ii) Successfully co-opted candidates become Councillors in their own right, with immediate effect, and are no different from any other member. As such, they must complete and sign the Declaration of Acceptance of Office Form and Declaration of Pecuniary Interests Form at their first meeting, or within 28 calendar days of co-option, whichever is sooner
  - iii) The successful candidate(s) will also confirm that they will comply with and abide by the Parish Council's Code of Conduct. Should the Councillor not comply with or breach the Code of Conduct then the Monitoring Officer at Maidstone Borough Council will be advised, who will deal with the matter.

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

Notes :

This policy is based upon a study of legislation, guidelines and practices of other Local Councils. It is intended as a summary of the most relevant points of procedure and legislation rather than a definitive document.

Legislation covering casual vacancies can be found at The Local Elections (Parishes and Communities) (England and Wales) Rules 2006 :

<https://www.legislation.gov.uk/uksi/2006/3305/made>