



UPTON BY CHESTER AND DISTRICT PARISH COUNCIL

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Upton-by-Chester and District Parish Council: CO-OPTION POLICY

Policy approved and adopted by the Parish Council on 13 June 2022

1. Introduction

This policy sets out the procedure to ensure there is compliance with legislation and continuity of procedures in the co-option of members to Upton-by-Chester and District Parish Council (UPC).

The co-option procedure is entirely managed by UPC and the objective of this policy is to ensure a fair and equitable process is implemented.

This policy provides, in particular, details and clarification on the processes of how UPC co-opts Councillors when vacancies arise, setting out the voting procedures and important information including Councillor eligibility, an application form is available separately.

2. Councillor Vacancies

According to [Section 87 of the Local Government Act 1972](#) a Casual Vacancy for a Parish Councillor occurs when:

- A Councillor fails to make his declaration of acceptance of office within the statutory time limit
- A Councillor resigns
- A Councillor dies
- A Councillor becomes disqualified (by virtue of conviction, or committing an offence as specified in the legislation)
- A Councillor fails for six consecutive months to attend meetings of the Council or Committee

When such a situation arises, the Parish Council has to notify Cheshire West and Chester Council (CW&CC) of a Casual Vacancy (as per s87(2) of the Local Government Act (LGA) 1972).

A legal notice is then sent to the Clerk which has to be published on the noticeboards and website for the Parish Council to give public notice of casual vacancies and advertise the vacancy and notify the Parish Councillors that the Co-option Policy has been instigated.

This notice gives a 14 day opportunity for 10 electors to write to CW&CC stating that an election is requested. In a warded parish such as UPC, the 10 electors must live within the ward that the vacancy arises.

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

If following the 14 days' notice period, this electors' request has not materialised, the Parish Council can then advertise for co-option, if it so wishes.

3. Co-option by the Parish Council

If, in the case of a regular Casual Vacancy ten residents do not request a ballot within fourteen days of the vacancy notice being posted, as advertised by the Returning Officer at CW&C Council, the Parish Council is thereafter able to co-opt a Member.

The Council may also decide to co-opt immediately in the circumstances as set out in 3.1 and 3.2.

3.1. Co-option during the six months preceding an ordinary election

When a Councillor vacancy arises within six months of the date of the next ordinary elections, the usual procedure as outlined above will not be instigated. During this period, the Parish Council can choose to co-opt, although it does not have to; whether co-option is to take place will be decided at a Full Parish Council meeting.

3.2. Co-option during the first 35 days following an ordinary election

The rules on filling vacancies arising from insufficient nomination at ordinary elections, resulting in vacant Members' seats as a result of an uncontested election, are different from the above rules on filling a Casual Vacancy. The relevant legislation for co-option during the period directly following an election where members' seats remain vacant is the [Representation of the People Act 1985, s21](#).

The rules set out in this Act mean that UPC may decide to co-opt, without having to notify CW&C Council first, up to and inclusive of the 35th working day following the day of the elections (with the day of the elections being included in the calculations).

At a Parish Council meeting held any time after the election day Members may co-opt under the power provided, so long as the meeting is quorate and the co-option is published on the agenda.

Whether to co-opt, or not, is nevertheless entirely a matter for Members to decide. The Council could decide to co-opt, advertise and postpone a decision, or do nothing.

NB: If the Parish Council does not fill the vacancies by co-option within 35 working days following an ordinary election, CW&C Council may order a new election to fill the vacancies but it does not have to. Some principle authorities do intervene and order an election but many do not and usually only do so if very low numbers of Councillors have been elected that would mean the Council would not be quorate.

4. Eligibility

A person is eligible to be co-opted provided they are qualified to be a Councillor pursuant to [Local Government Act \(LGA\) 1972, s79](#) and are not disqualified from being a Member pursuant to [LGA 1972, s800](#). Further details on eligibility criteria can also be found at the website of the [Electoral Commission](#).

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

- Are over 18 years of age; and
- Are a UK, Northern Irish or Commonwealth citizen; and
- Meet at least one of the following four criteria:
 - Are registered to vote in Upton-by-Chester and District Parish, via the registration on the register of electors; or
 - Occupy as owner or as tenant, land or premises within the parish boundaries within the past 12 months; or
 - Work in the parish as their principal or only place of work; or
 - Live within three miles of the parish boundary

A person is disqualified from being elected as or being a Parish Councillor if they:

- a. Hold any paid office or employment of the local council (other than the office of Chairman) or of a joint committee on which the council is represented.
- b. Are the subject of a bankruptcy restrictions order, or an interim bankruptcy restrictions order under Schedule 4ZB of the Insolvency Act 1986 - [Schedule 4ZB of the Insolvency Act 1986](#)
- c. Have within 5 years before the day of election, or since their election, been convicted in the U.K., Channel Islands or Isle of Man of any offence and has been sentenced to imprisonment (whether suspended or not) for not less than 3 months without the option of a fine
- d. Are otherwise disqualified under Part III of the Representation of the People Act 1983 - [Part III of the Representation of the People Act 1983](#) for corrupt or illegal practices, or under the Audit Commission Act 1998 - [Audit Commission Act 1998](#) consequent upon audit proceedings

5. Applications

Once the Council has decided to co-opt for a vacancy, an application form will be made available on the Council's website and promotion of the co-option opportunity will take place. The date of the meeting when the co-option is to be made will be stated in the advertisement.

Anyone wanting to nominate themselves for co-option will be asked to submit information about themselves by way of completing the application form and a personal statement. The form will also include a declaration that the person is eligible and not disqualified to become a Councillor.

All enquiries and applications should be sent to the Clerk at clerk@uptonbychester.org.uk. A list of the names of applicants, along with their personal statements will be circulated to Councillors prior to the meeting at which the co-option is notified on the agenda.

In the event of insufficient candidates coming forward, the process will continue and the vacancy will be re-advertised.

6. Candidate Presentation

The decision made by the Council about who to co-opt when a casual vacancy arises should be transparent. Therefore, at the meeting of the Parish Council, consideration of applications will be dealt with in a public session.

The Council's debate and vote on the co-option must, therefore, be conducted in the public section of its meeting. It follows that the candidates, as members of the public, will also be entitled to be present during the proceedings.

Candidates will be invited to speak at the meeting; to introduce themselves and provide a short summary of the reasons wish to applying to the Parish Council and details of the skills and experience they will bring to the role.

7. Voting Process

UPC is not obliged to fill any Parish Council vacancy. Even if the Council invites applications for co-option, it is not obliged to select anyone from the candidates who apply. Where there is more than one vacant seat, the Parish Council may also decide to fill only a selection of the seats available, even if there are more candidates who have nominated themselves than seats available.

At the relevant agenda item (and following candidates presentations if decided above), voting will take place by way of ballot papers.

At each round of voting Councillors will be provided with ballot papers and have one vote each. Councillors present and voting will, at each round of voting write down one name of the person they wish co-opted. They may also write 'none' if they decide that they do not want the position to be filled by any of the candidates.

Ballot papers will be collected by the Clerk who will count and record the votes (which will be kept on the Parish Council files).

Following the counting, the Clerk, with the Chairman, will read out the results and declare the results and proceedings for the next round of voting, where deemed necessary.

Voting will be according to the statutory requirement in that a successful candidate must have received an absolute majority vote of those Members present and voting (Local Government Act 1972, sch 12, para 39). An absolute majority means that the chosen candidate must receive more votes than the total of votes for all other candidates together.

After the voting procedure have been concluded, the Chairman will declare the successful candidate duly elected. This requires a resolution to be passed.

8. Offer and Acceptance of Office

Following the resolution, the Clerk will approach and offer co-option to the candidate (in the case of more than one vacancy, the offers will be made in the order of the voting process).

If the offer is accepted at the meeting, the co-opted Councillor will be invited to complete and sign their Declaration of Acceptance of Office and take their seat immediately.

If not present at the meeting, the co-opted Councillor will, as soon as possible, complete and sign the Declaration of Acceptance of Office in the presence of the Clerk and may then act as a Parish Councillor.

A Declaration of Acceptance of Office must be returned before or at the next meeting of the Parish Council unless the Council resolves otherwise but this cannot be retrospective.

The Clerk will provide the new Councillor with the Council's Code of Conduct and a Councillor Induction pack as soon as possible.

The Clerk will notify Democratic Services at CW&C Council of the new Councillor appointment. The Clerk will alert the new Councillor to the Register of Interest Form which must be completed within 28 days of being elected. The Clerk will forward a copy to the Monitoring Officer.