



Kirkbymoorside Town Council
Draft Co-Option Policy

This policy outlines the procedure to be followed by Kirkbymoorside Town Council when there is a vacancy, to ensure that the co-option process is fair and equitable.

There are two types of vacancy, 'ordinary' resulting from an uncontested election whereby seats on the council remain vacant due to an insufficient number of candidates, and 'casual' arising by virtue of councillor resignation, disqualification or death. ⁱ

In the event of an 'ordinary' vacancy the council (i.e. those elected unopposed) may co-opt any qualified person or persons to fill the vacancies and there is no opportunity for ten electors to claim a bye-election.

In the event of a 'casual' vacancy the council must notify the Principal Authority, Ryedale District Council, Electoral services at the Principal Authority, Ryedale District Council; 14 days-notice to electors to call a poll must be provided. In the event that there is no call for a bye-election the council will fill the vacancy by co-option.

The following procedure will be followed to fill a vacancy by co-option:

1. A notice is erected in a conspicuous place in the parish inviting people to write to the council expressing their interest in the role of councillor, providing an explanation as to their suitability.
2. The notice advertising the vacancy will contain a closing date for receipt of applications.
3. Upon receipt, the council must check, as far as reasonably possible, that candidates are eligible in accordance with the Local Government Act 1972, section 79.
In order to be eligible, the candidate must:
 - i. be 18 years old or over; and
 - ii. be an elector for the parish; or
have resided in the parish for the past twelve months or rented/tenanted land in the parish; or
have their principal place of work in the parish; or
have lived within three miles (direct) of the parish.
 - iii. **and** not be disqualified from being a councillor by virtue of section 80 of the Local Government Act 1972.

Commented [1]: "A local council may wish to indicate that people with specific skills and expertise (e.g. accountancy, HR, Planning) are particularly welcome to apply. This should not be part of the formal notice and it must be clear that people without those skills are still eligible to apply. In cases where there are more candidates than vacancies, a council will need to fairly consider who to coopt and such skills and expertise may be taken into account according to a council's particular needs. (NALC (National Association of Local Councils) LTN 8 | ELECTIONS AND CO-OPTION June 2020)

4. Following receipt of applications, the next suitable 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'.

5. The council will consider all applications at a meeting of the council and resolve to co-opt the most suitable candidate.

or

5. The council will request all those submitting an application to attend a parish council meeting and provide a short (specify the time) presentation as to their suitability as a parish councillor, prior to resolving to co-opt the most suitable candidate.

or

5. Upon receipt of applications and prior to the date of the next meeting the council will invite applicants to meet with two (appointed) councillors (one of which will be the chair) for an informal meeting to discuss their application and to provide a precis of the role of the council and councillor. The applications will then be received at the next meeting of the council with an agenda item to resolve to co-opt the most suitable candidate.

6. The successful candidate will be elected by an **absolute majority vote**. This means that if the council has more than two applicants for one vacancy the successful applicant must receive more votes than the others added together.¹

The council must be prepared to explain its decision to the candidate(s).

7. The successful candidate will sign a Declaration of Acceptance of Office before they can act as a parish councillor and before the next meeting of the council.

8. The clerk will provide the new councillor with the council's Code of Conduct.

9. The clerk will provide the new councillor with the council's councillor induction pack

Commented [2]: NOTE from YLCA: The council can choose how to manage this part of the process and may make its selection using information in the written application only or it may invite the candidates to come to the meeting to say a bit about themselves, which is actually quite a useful exercise. It is important to remember that the process must be transparent, fair and equitable. The council needs to be aware of the need for confidentiality in part of the co-option process. In the opinion of YLCA the part where candidates speak to the meeting is not prejudicial to the public interest, however where the council is discussing the merits of candidates and inevitably their personal attributes etc, this could be prejudicial and so for this part of the process, we advise the council to exclude members of the press and public. The councillors must vote in the normal way, i.e. proposer, seconder and vote by show of hands. Difficult though it may be because co-option is a very local issue, this part of the process is not prejudicial to the public interest and the public should be present for it.

Commented [3]: "Decisions about co-option which are made at council meetings when the public have been excluded will not eliminate the need for a council to explain, for example to unsuccessful candidates, the reasons for its decisions." (NALC (National Association of Local Councils) LTN 8 | ELECTIONS AND CO-OPTION June 2020 item 22. Decision making)

¹ Extract from *Town Council Standing Order 12 Voting on appointments*

"Where more than 2 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. Any tie may be settled by the Chairman's casting vote."

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Casual Vacancy

According to section 87 of the 1972 Act, a casual vacancy occurs when:

- a) a councillor fails to deliver his declaration of acceptance of office at the proper time (see paragraph below);
or
- b) a councillor resigns; or
- c) a councillor dies; or
- d) in the case of a councillor who is disqualified by virtue of a criminal conviction, under section 79 of the Local Government Act 2000 (Wales) or under section 34 of the Localism Act 2011 (England), the expiry of the period for making an application or appeal or, if an appeal or application has been made, the date that any such application or appeal process comes to an end;
- e) on the date of a report or certificate of an election court that declares an election void;
- f) a person ceases to be qualified to be a councillor for a reason not mentioned above; or
- g) a councillor fails to attend meetings for six consecutive months.

Declaration of acceptance of office

In accordance with section 83(4) of the 1972 Act, on being elected to office, a councillor must sign a declaration of his acceptance of office, in the presence of another councillor or the clerk. The declaration must be delivered before or at the first meeting of the council after election or, if permitted by the council at that meeting, before or at a later meeting fixed by the council. If a councillor fails to deliver the signed declaration at the due time, he thereupon vacates office and a casual vacancy arises. There is no provision allowing a declaration to be delivered retrospectively. A councillor who is elected as the chairman of a local council must sign and deliver a separate declaration of acceptance of the office of chairman.

Failure to attend meetings

Under section 85 of the 1972 Act, a councillor vacates office if he fails to attend a relevant meeting for six consecutive months after his last attendance, unless before the expiry of that period the council approves a reason for his absence. The following constitute a relevant meeting:

- a) a meeting of the council, or any of its committees or sub-committees;
- or
- b) a meeting of a joint committee, joint board or similar body by which any of the council's functions are for the time being discharged or which are advising the council on any matter relating to the discharge of its functions;
 - c) a meeting of any body of persons at which the attendance of the councillor is as a representative of the council.

A council cannot approve a reason for a councillor's absence from a meeting if no reason is given. To simply record in the minutes of a meeting that a councillor was absent does not amount to approval for his absence. A councillor must give a reason for his absence from a meeting and the minutes of that meeting must document that approval for a councillor's absence was agreed by resolution and, where appropriate, the reason for absence.