

# **Kimbleworth and Plawsworth Parish Council Co-option Policy**

## **Public notice of vacancies**

Section 87(2) of the Local Government Act 1972 ("the 1972 Act") requires a local council to give public notice of casual vacancies. There is no statutory requirement to give public notice of local council vacancies which remain unfilled after an ordinary election (s.21(2) Representation of the People Act 1985).

The National Association of Local Councils (NALC) recommends that councils give public notice of vacancies which arise in both circumstances to encourage transparency and to attract more candidates. The Council should invite applications from candidates who satisfy (i) the eligibility criteria for being a councillor and (ii) the competencies expected of a councillor.

## **Eligibility**

Section 79 (1) of the Local Government Act 1972 (the 1972 Act) provides, unless disqualified (see below) a person is qualified to be elected and to be a councillor if he is a qualifying Commonwealth citizen or an EU citizen and on the day on which he is co-opted he is 18 years of age or over and:

- a) On that day he is and thereafter he continues to be a local government elector for the area of the authority; or
- b) he has during the whole of the 12 months preceding that day occupied as owner or tenant any land or premises in that area; or
- c) his principal or only place of work during that 12 month has been in that area; or
- d) he has during the whole of those 12 months resided in that area; or
- e) in the case of a member of a parish or community council he has during the whole of those 12 months resided either in the parish or community or within three miles of it

A person is a qualified Commonwealth citizen if he is a Commonwealth citizen who either-

- is not a person who requires leave under the Immigration Act 1971(the 1971 Act) to enter and remain in the United Kingdom, or
- is such a person but for the time being has (or is, by virtue of any enactment, to be treated as having) indefinite leave to remain within the meaning of the 1971 Act.

A person is not a qualifying Commonwealth citizen if he does not require leave to enter or remain in the United Kingdom by virtue only of section 9 of the 1971 Act (exceptions to requirement for leave in special cases).

The Council may need to investigate or obtain evidence about a candidate's eligibility to be a councillor if this is challenged.

## **Disqualification**

In accordance with section 80 of the 1972 Act, a person is disqualified from being elected (co-opted) or being a councillor if he:

- a) holds any paid office or employment (other than the office of chairman, vice chairman or deputy chairman) to which he has 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; or
- b) is 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) has within five years before the day of election or since his 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; or
- d) has been found guilty of corrupt or illegal practices or was responsible for incurring unlawful expenditure and the court orders his disqualification.

In relation to a) above, when dealing with an office of profit, it is irrelevant that no profit was received.

## **Decision making**

The decisions made by the Council about (i) whether to co-opt when vacancies remain unfilled after an ordinary election and (ii) who to co-opt when vacancies remain unfilled after an ordinary election, and when casual vacancies arise, should be transparent.

It is 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. 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.

The council will need to fairly consider if candidates are suitable for co-option based on their background, correspondence and the competencies expected of a councillor.

## **Competencies of a councillor**

- Sound knowledge and understanding of local affairs and the local community.
- Ability and willingness to represent the Council and their community.
- Ability to communicate clearly both orally and in writing.
- Ability and willingness to work closely with other members and to maintain good working relationships with all members and staff.
- Good reading and analytic skills.
- Ability and willingness to work with the Council's partners (e.g., voluntary groups, other parish councils, principal authority, charities).
- Ability and willingness to undertake relevant training.
- Ability and willingness to attend meetings of the Council in the evening.
- Enthusiastic.

## **The process**

1. All expressions of interest for co-option should be made in writing (including email) to the Clerk. If contact is made via a councillor, then details should be forwarded to the Clerk.
2. The Clerk will ensure eligibility is met and request background information and any other information the prospective councillor would like to offer to the Council.
3. This information will be provided to the Council in the correspondence section at the next available meeting. The applicant may wish to attend the meeting as a member of the public. This can act as a 'cooling period' for the applicant, to ensure they wish to be a councillor.
4. The Council will then decide to invite the applicant (or not) to the following monthly meeting for co-option.
5. The Clerk will invite the applicant for co-option. The applicant will be expected to sign a form confirming they are eligible and not disqualified to hold office (in the same way as elected councillors do).
6. The applicant will sign an acceptance of office form as soon as they are co-opted. From this point, they will be a parish councillor.