

The Co-option of a Parish Councillor occurs when a casual vacancy has arisen on the Council and no poll (by-election) has been called.

To ensure that a fair and transparent process is undertaken the following procedure will be followed by Ashford Parish Council:

- 1) On receipt of written confirmation from the Electoral Services Office at North Devon Council, the casual vacancy can be filled by means of Co-option, the Parish Clerk will:
 - a) advertise the vacancy for 4 weeks on the Council notice boards and website.
 - b) advise the Council that the Co-option Policy has been instigated.
- 2) Applicants for co-option will be asked to:
 - a) submit information about themselves, by way of completing a short application form.
 - b) confirm their eligibility for the position of Councillor within the statutory rules, by completing an Eligibility Form
- 3) Copies of the applicant's application form will be circulated to all Councillors by the Clerk at least seven days prior to the meeting of the full Council, when the Co-option will be considered.
- 4) Applicants will be required to attend the meeting of the Full Council, when the Co-option will be considered. At the meeting, applicants will be asked to give a short presentation and may be asked questions.
- 5) Discussion about the applications will take place in council session without intervention from the candidates or public. Voting will be according to the statutory requirements, in that, a successful candidate must have received an absolute majority vote of those present and voting. If there are more than two candidates for one vacancy and no one of them at the first count receives a majority over the aggregate votes given to the rest, steps must be taken to strike off the candidate with the least number of votes and the remainder must then be put to the vote again; this process must, if necessary, be repeated until an absolute majority is obtained. Councillors shall vote by show of hands, or, if at least two members so request, by signed ballot. If any member so requires, the Clerk shall record the names of members who voted on any question so as to show whether they voted for, against, or abstained. In the case of an equality of votes, the Chairman of the meeting has a second or casting vote.
- 6) After the vote has been concluded, the Chairman will declare the successful candidate duly elected.

CANDIDATE'S CONSENT TO CO-OPTION

CO-OPTION OF PARISH COUNCILLOR

for the

PARISH OF

.....
.....

I, (name in full)

.....
.....

of (home address in full)

.....
.....
.....

.....hereby consent to being co-opted for the above Parish.

I declare that I am qualified and that I will be qualified to be so co-opted by virtue of being on the day of co-option a Commonwealth citizen, a Citizen of the Republic of Ireland or a citizen of another Member State of the European Community, who has attained the age of 18 years and that

*a. I am registered as a local government elector for the area of the parish of;

or

*b. I have, during the whole of the 12 months preceding that day or those days occupied as owner or tenant land or other premises in the parish named above;

or

*c. my principal or only place of work during those 12 months has been in the parish named above;

or

*d. I have during the whole of those 12 months resided in that parish named above or within 4.8 kilometres of it.

or

I declare that to the best of my knowledge and belief I am not disqualified for being elected by reason of any disqualification set out in, or decision made under, section 80 or 81A of the Local Government Act 1972 or section 34 of the Localism Act 2011 (copies of which are printed overleaf).

Date of birth:			Signature:	Date of consent:
Witness: I confirm the above-mentioned candidate signed the declaration in my presence.				
Witness (name in full):				
Witness's signature:				

Note 1: A candidate who is qualified by more than one qualification may complete any of those which may apply.

Note 2: Disqualifications set out under s.81A of the Local Government Act 1972 only apply to a person who is subject to any relevant notification requirements, or relevant order, made on or after June 2022.

Local Government Act 1972

80. Disqualifications for election and holding office as member of local authority.

(1) Subject to the provisions of section 81 below, a person shall be disqualified for being elected or being a member of a local authority if he –

- (a) holds any paid office or employment (other than the office of chairman, vice-chairman, deputy chairman, presiding member or deputy presiding member or, in the case of a local authority which are operating executive arrangements which involve a leader and cabinet executive, the office of executive leader or member of the executive) appointments or elections to which are or may be made or confirmed by the local authority or any committee or sub-committee of the authority or by a joint committee or National Park authority on which the authority are represented or by any person holding any such office or employment; or
- (b) is the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order, or a debt relief restrictions order under Schedule 4ZB of the Insolvency Act 1986; or
- (c) [This has been removed and no longer applies]
- (d) has within five years before the day of election or since his election been convicted in the United Kingdom, the Channel Islands or the Isle of Man of any offence and has had passed on him a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine; or
- (e) is disqualified for being elected or for being a member of that authority under Part III of the Representation of the People Act 1983.

(2) Subject to the provisions of section 81 below, a paid officer of a local authority who is employed under the direction of –

- (a) a committee or sub-committee of the authority any member of which is appointed on the nomination of some other local authority; or
- (b) a joint board, joint authority, economic prosperity board, combined authority, joint waste authority or joint committee on which the authority are represented and any member of which is so appointed;

shall be disqualified for being elected or being a member of that other local authority.

(2AA) A paid member of staff of the Greater London Authority who is employed under the direction of a joint committee the membership of which includes –

- (a) one or more persons appointed on the nomination of the Authority acting by the Mayor, and
- (b) one or more members of one or more London borough councils appointed to the committee on the nomination of those councils,

shall be disqualified for being elected or being a member of any of those London borough councils.

(2A) Subsection (2) above shall have effect as if the reference to a joint board included a reference to a National Park authority.

(2B) For the purposes of this section a local authority shall be treated as represented on a National Park authority if it is entitled to make any appointment of a local authority member of the National Park authority.

(3) Subsection (1)(a) shall have effect in relation to a teacher in a school maintained by the local authority who does not hold an employment falling within that provision as it has effect in relation to a teacher in such a school who holds such an employment.

(5) For the purposes of subsection (1)(d) above, the ordinary date on which the period allowed for making an appeal or application with respect to the conviction expires or, if such an appeal or application is made, the date on which the appeal or application is finally disposed of or abandoned or fails by reason of the non-prosecution thereof shall be deemed to be the date of the conviction.

81 Exception to provisions of section 80

(4) Section 80(2) and (3) above shall not operate so to disqualify –

- (a) any person by reason of his being a teacher, or otherwise employed, in a school or other educational institution maintained or assisted by a county council for being a member of a district council by reason that the district council nominates members of the education committee of the county council

81A Disqualification relating to sexual offences etc

(1) A person is disqualified for being elected or being a member of a local authority in England if the person is subject to—

- (a) any relevant notification requirements, or
- (b) a relevant order.

(2) In this section "relevant notification requirements" means—

- (a) the notification requirements of Part 2 of the Sexual Offences Act 2003;
- (b) the notification requirements of Part 2 of the Sex Offenders (Jersey) Law 2010;
- (c) the notification requirements of Part 2 of the Criminal Justice (Sex Offenders and Miscellaneous Provisions) (Bailiwick of Guernsey) Law 2013;
- (d) the notification requirements of Schedule 1 to the Criminal Justice Act 2001 (an Act of Tynwald: c. 4).

(3) In this section "relevant order" means—

- (a) a sexual harm prevention order under section 345 of the Sentencing Code;
- (b) a sexual harm prevention order under section 103A of the Sexual Offences Act 2003;
- (c) a sexual offences prevention order under section 104 of that Act;
- (d) a sexual risk order under section 122A of that Act;

- (e) a risk of sexual harm order under section 123 of that Act;
 - (f) a risk of sexual harm order under section 2 of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005;
 - (g) a sexual risk order under section 27 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016;
 - (h) a restraining order under Article 10 of the Sex Offenders (Jersey) Law 2010;
 - (i) a child protection order under Article 11 of that Law;
 - (j) a sexual offences prevention order under section 18 of the Criminal Justice (Sex Offenders and Miscellaneous Provisions) (Bailiwick of Guernsey) Law 2013;
 - (k) a risk of sexual harm order under section 22 of that Law;
 - (l) a sexual offences prevention order under section 1 of the Sex Offenders Act 2006 (an Act of Tynwald: c. 20);
 - (m) a risk of sexual harm order under section 5 of that Act.
- (4) For the purposes of subsection (1)(a), a person who is subject to any relevant notification requirements is not to be regarded as disqualified until—
- (a) the expiry of the ordinary period allowed for making an appeal or application against the conviction, finding, caution, order or certification in respect of which the person is subject to the relevant notification requirements, or
 - (b) if such an appeal or application is made, the date on which it is finally disposed of or abandoned or fails because it is not prosecuted.
- (5) For the purposes of subsection (1)(b), a person who is subject to a relevant order is not to be regarded as disqualified until—
- (a) the expiry of the ordinary period allowed for making an appeal against the relevant order, or
 - (b) if such an appeal is made, the date on which it is finally disposed of or abandoned or fails because it is not prosecuted.

Localism Act 2011

Section 34(4) describes how a person may be disqualified from standing in local government elections under this section. The remaining provisions of section 34 do not directly affect a person's entitlement to stand for election

34 Offences

- (1) A person commits an offence if, without reasonable excuse, the person—
- (a) fails to comply with an obligation imposed on the person by section 30(1) or 31(2), (3) or (7),
 - (b) participates in any discussion or vote in contravention of section 31(4), or
 - (c) takes any steps in contravention of section 31(8).

(2) A person commits an offence if under section 30(1) or 31(2), (3) or (7) the person provides information that is false or misleading and the person—

(a) knows that the information is false or misleading, or

(b) is reckless as to whether the information is true and not misleading.

(3) A person who is guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(4) A court dealing with a person for an offence under this section may (in addition to any other power exercisable in the person's case) by order disqualify the person, for a period not exceeding five years, for being or becoming (by election or otherwise) a member or co-opted member of the relevant authority in question or any other relevant authority.

(5) A prosecution for an offence under this section is not to be instituted except by or on behalf of the Director of Public Prosecutions.

(6) Proceedings for an offence under this section may be brought within a period of 12 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to the prosecutor's knowledge.

(7) But no such proceedings may be brought more than three years—

(a) after the commission of the offence, or

(b) in the case of a continuous contravention, after the last date on which the offence was committed.

(8) A certificate signed by the prosecutor and stating the date on which such evidence came to the prosecutor's knowledge is conclusive evidence of that fact; and a certificate to that effect and purporting to be so signed is to be treated as being so signed unless the contrary is proved.

(9) The Local Government Act 1972 is amended as follows.

(10) In section 86(1)(b) (authority to declare vacancy where member becomes disqualified otherwise than in certain cases) after " 2000 " insert " or section 34 of the Localism Act 2011 ".

(11) In section 87(1)(ee) (date of casual vacancies)—

(a) after "2000" insert " or section 34 of the Localism Act 2011 or ", and

(b) after "decision" insert " or order ".

(12) The Greater London Authority Act 1999 is amended as follows.

(13) In each of sections 7(b) and 14(b) (Authority to declare vacancy where Assembly member or Mayor becomes disqualified otherwise than in certain cases) after subparagraph (i) insert—

"(ia) under section 34 of the Localism Act 2011,".

(14) In section 9(1)(f) (date of casual vacancies)—

(a) before "or by virtue of" insert " or section 34 of the Localism Act 2011 ", and

(b) after "that Act" insert " of 1998 or that section ".