



TANKERSLEY
PARISH COUNCIL

CO-OPTION PROCEDURES

Based on the Local Government Act 1972,
the Local Elections (Parishes and Communities) (England and
Wales) Rules 2006,
NALC Legal Topic Note LTN8 (June 2020) - Elections and Co-
option, Legal Briefing Note LO3-20 and
SLCC Advice Note AD 152 –Councillors: Election and Co-option.

Tankersley Parish Council

Co-option Procedures

1. References And Statutory Context

This procedure uses as its references NALC Legal Topic Note LTN8 (June 2020) - Elections and Co-option, Legal Briefing Note LO3-20 and SLCC Advice Note AD 152 –Councillors: Election and Co-option.

Suitable wording has been taken from these documents, as well as a sample SLCC co-option process, questionnaire and vacancy notice plus guidance from the Electoral Service department, Barnsley Metropolitan Borough Council.

Principal legislation governing the area of Co-option and Elections is the Local Government Act 1972 and the Local Elections (Parishes and Communities) (England and Wales) Rules 2006.

2. Introduction

This document sets out the procedures to ensure there is compliance with legislation and continuity of procedures in the co-option of members to Tankersley Parish Council.

The Co-option procedure is entirely managed by Tankersley Parish Council and the objective of this policy is to ensure a fair and equitable process is implemented in an open and transparent manner.

3. Casual Vacancies

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

- 3.1 A councillor fails to deliver his declaration of acceptance of office at the proper time; or
- 3.2 A councillor resigns; or
- 3.3 A councillor dies; or
- 3.4 A councillor becomes disqualified or the expiry 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; or
- 3.5 On the date of a report or certificate of an election court that declares an election void; or
- 3.6 A councillor fails to attend parish council-related meetings for six consecutive months.

4. Notification

- 4.1 Tankersley Parish Council must notify the Electoral Services department of Barnsley Metropolitan Borough Council that a vacancy has arisen.

Under section 87(2)(b) of the Local Government Act 1972, the local council must give public notice of all vacancies as soon as practicable after the casual vacancy is deemed to have occurred and in accordance with the requirements of section 232 of the Local Government Act 1972. The Electoral Services department will publish the vacancy on their electronic noticeboard, as well as producing guidance to allow the Parish Council to draft a suitable notice for publication on its web site and any social media platform.

As part of this guidance Electoral Services will advise the Clerk of relevant dates and deadlines relating to the vacancy, which must be adhered to by law.

Copies of the notice drafted by the Parish Council should also be displayed on physical noticeboards in the parish by the Clerk. This provides everyone with an opportunity to request an election if that is what they wish.

The Clerk must confirm to Electoral Services when the notices have been published. Rule 5 of the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, provides that on a casual vacancy occurring in the office of Parish Councillor, an election to fill the vacancy shall be held if within fourteen working days after the date of this notice has been given in accordance with section 87(2) of the Local Government Act 1972, notice in writing of a request for such an election has been given to the proper officer of the council of the district within which the Parish is situated by **TEN** electors for the Parish. The electoral officer will advise the Clerk of the closing date.

Once a poll has been requested for a casual vacancy, it is no longer permissible for a Parish Council to seek to fill such a vacancy by co-option, even if the initial poll does not result in any person being nominated for election.

4.2 By-Elections

If a by-election is called, a polling station will be set up by Barnsley Metropolitan Borough Council and the people of the parish will be asked to go to the polls to vote for candidates who will have put themselves forward by way of a nomination paper.

The Parish Council is obliged to pay the costs of the election. If more than one candidate is nominated, a by-election takes place; if only one candidate applies, that candidate will be duly elected without a ballot (subject to eligibility).

5. Initiating Co-Option

- 5.1 If no by-election is called, Electoral Services office from Barnsley Metropolitan Borough Council will confirm to the Clerk in writing that the casual vacancy can be filled through the co-option process.

- 5.2 The Parish Council must, therefore, as soon as practicable after the expiry of the 14-working day period fill the vacancy by co-option of a suitably qualified volunteer (see eligibility rules below).

The exception to this rule is in the case of a casual vacancy occurring within six months of the day on which the councillor would normally have retired from office.

In these circumstances, the Parish Council would wait until the next scheduled by-election.

5.3 On receipt of written confirmation from Electoral Services, the Parish Clerk will:

5.3.1 Advertise the vacancy 14 working days on the Parish Council's noticeboards and website.

5.3.2 Advise Tankersley Parish Council Councillors the Co-option Policy has been instigated.

5.4 Tankersley Parish Council is not obliged to fill any vacancy and therefore even if it invites application for co-option, it is not compelled to select anyone from the candidates who apply.

However, it is not desirable that electors in a parish are left partially or fully under-represented for any significant length of time and this status would also not be beneficial for the effective and efficient workings of the council.

5.5 Councillors elected by co-option are full members of the Parish Council.

6. Eligibility of Candidates

6.1 Tankersley Parish Council may consider any person to fill a vacancy provided that on the date of nomination/application:

6.1.1 He/she is an elector for the parish; or

6.1.2 Has resided in the parish for the past twelve months or rented/tenanted land or other premises in the parish; or

6.1.3 Had his/her principal place of work in the parish; or

6.1.4 Has lived within three miles (direct) of the parish.

6.2 There are certain factors specified in section 80 of the Local Government Act 1972 that disqualify a person from being eligible for election/co-option as a parish councillor, namely:

6.2.1 Holding a paid office under the local authority

6.2.2 Bankruptcy

6.2.3 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

6.2.4 Being disqualified under any enactment relating to corrupt or illegal practices.

6.3 In addition, candidates found to be offering inducements of any kind will be disqualified from consideration.

7. Applications

7.1 Members may point out the vacancies and the process to any qualifying candidate(s).

Although there is no statutory requirement to do so, candidates will be requested to:

7.1.1 Confirm their eligibility for the position of councillor within the statutory rules by completing the eligibility confirmation as part of the co-option application form

7.1.2 Submit information about themselves, with reference to the co-option application form and subject to the Parish Council's Data Protection Policy

7.2 Following receipt of applications, the next suitable Parish 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'

7.3 Copies of the candidates' applications will be circulated to all councillors by the Clerk at least 3 clear days prior to the meeting of the Council, when the co-option will be considered

All such documents will be treated by the Clerk and all Councillors as Strictly Private and Confidential.

7.4 Candidates will be sent a full agenda of the meeting at which they are to be considered for appointment. Candidates will also be informed that they will be invited to speak about their application at the meeting.

8. At the Co-Option Meeting

8.1 At the co-option meeting, candidates will be given five minutes maximum to introduce themselves to Members, give information on their background and experience and explain why they wish to become a Member of Tankersley Parish Council.

8.2 The process will be carried out by adjourning the meeting to allow the candidate(s) to speak. Where the Council wishes to discuss the merits of candidates and inevitably their personal attributes, this could be prejudicial, and the Council will resolve to exclude the members of the press and public for a short period.

8.3 As soon as all candidates have finished giving their submissions, the council will proceed to a vote on the acceptability of each candidate utilising the application form criteria and any supporting personal statements provided by candidates, with each candidate being proposed and seconded by the councillors in attendance and a vote by a show of hands.

The vote will be recorded to show whether each Councillor present and voting gave his/her vote for or against that question.

8.4 For a candidate to be elected to Tankersley Parish Council, it will be necessary for them to obtain an absolute majority of votes cast (50% + 1 of the votes available at the meeting).

8.5 If there are more than two candidates and there is no candidate with an overall majority in the first round of voting, the candidate with the least number of votes will drop out of the process.

Further rounds of voting will then take place with the process repeated until a candidate has an absolute majority.

Any tie may be settled by the Chairman's casting vote.

- 8.6 After voting has been concluded, the Chairman will declare the successful candidate(s) duly elected and after signing their declaration of acceptance of office, they may take their seat immediately.
- 8.7 The Clerk will provide the new councillor(s) with copies of the Code of Conduct, Standing Orders and Financial Regulations.
- 8.8 The Clerk will notify Electoral Services of the new Councillor appointment(s). The successful candidate(s) must complete the 'Registration of Interests' declaration within 28 days of being elected. The form should be handed to the Clerk for forwarding to the Monitoring Officer.
- 8.9 If insufficient candidates come forward for co-option, the process should continue, whereby the vacancies are again advertised.