



Councillor Co-option Policy

TOTNES TOWN COUNCIL

AGREED DECEMBER 2025

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This policy outlines the process for the co-option of a Town Councillor when a casual vacancy has arisen on the Council and no poll (by-election) has been called.

1. Introduction

1.1 The co-option of a Town Councillor occurs when a casual vacancy has arisen on the Council (through resignation or death) and no poll (by-election) has been called by the electorate. There are two different situations when a vacancy arises leading to a co-option: a casual vacancy which can arise under a number of circumstances; and unfilled seats following ordinary elections. See Annex A published by DALC for details.

1.2 It is important that all applicants are treated equally so that the selection process is seen as open, fair and transparent. This policy sets out the process to be followed by Totnes Town Council when co-option is under consideration.

1.3 To ensure that a fair and transparent process is undertaken the procedure set out below will be followed.

2. Casual Vacancy

2.1 On receipt of written confirmation from the Electoral Services Office at South Hams District Council (SHDC) that the requisite 10 electors of the Parish have not called for a poll (by-election) within the legally specified time period (currently 14 days) following the publication of the Notice of Vacancy, the Town Clerk is notified by SHDC that the vacancy(ies) may be filled by co-option. The Town Council may then decide if they wish to proceed to co-opt within 28 days or wait for a period of up to 6 months before proceeding. If the casual vacancy can be filled by means of co-option, the Town Clerk will:

- a. advertise the vacancy for 3 weeks on the Council notice boards, ~~and~~ website and social media channels, and if considered necessary place an advert in the local press.
- b. advise the Council that the Co-option Policy has been instigated, by sending an email to all Councillors.

2.2 Applicants for co-option will be asked to:

- a. submit information about themselves, by way of completing a short application form (see Annex B).
- b. confirm their eligibility for the position of Councillor within the statutory rules, by completing an Eligibility Form (see Annex C).

2.3 Copies of the applicant's application form will be circulated to all Councillors by the Clerk prior to the meeting of the Full Council when the co-option will be considered. The applications forms will be included in the ~~Part 1~~ papers which are made available to the public (with all personal details redacted).

2.4 Following the Full Council decision the newly appointed Councillor(s) will be contacted by the Clerk who will arrange for an induction appointment where Declaration of Acceptance of Office and Register of Interest forms will be completed.

2.5 Canvassing councillors or the members of a committee, directly or indirectly, for appointment to or by the Council shall disqualify the candidate from appointment.

3. Unfilled Seats following an Ordinary Election

3.1 Under the Representation of the People Act 1985 Section 21 allows the elected members, provided there is a quorum (one third of the whole number of members with a minimum of three) to co-opt members to fill the remaining vacancies. This must happen within 35 working days of the date of the ordinary elections - the Council will (or have commenced the process) to fill the vacancy(ies) by way of co-option. The process to follow is as set out from 2.1 above.

4. Co-option Process

4.1 Applicants will be permitted to attend the meeting of the Council as members of the public when the co-option is being considered.

4.2 Discussion about the applications will take place in Council session without intervention from the candidates or public. However, if it is necessary for the Council to discuss the merits of candidates and inevitably their personal attributes, this could be considered prejudicial, and if so, the Council could resolve to exclude the members of the press and public.

5. Councillors Conflict of Interest

5.1 Declarations of Interest must be made by Town Councillors as each candidate is considered, (for example family ties, friendships, business relationships, etc). This does not prevent Councillors from voting, but a Councillor may exempt themselves from the process if there is considered a serious conflict of interest.

5.2 Where a Councillor feels they have a serious conflict of interest, they must declare this interest and request to be exempt from the co-option process. The Councillor will be invited to leave the room at the commencement of the co-option process, and re-join the meeting once all voting has been completed and decisions made.

6. Voting

6.1 Voting must take place in a public meeting and only Councillors present at the meeting may vote. Voting will take the form of a show of hands, with each Councillor having one vote per round of voting, with the Clerk to the meeting recording each candidates votes for, against and any abstentions.

6.2 Voting will be according to the statutory requirements, in that, each successful candidate must have received an absolute majority vote of those present and voting (50% + 1 of the votes available at the meeting).

6.3 If there are fewer candidates than vacancies, each candidate must receive an absolute majority vote of those members present at the meeting to be co-opted (therefore, no majority = no co-option). There is no “co-opted uncontested” provision within the law.

6.4 Where there is the same number of candidates as vacancies, each candidate must still receive an absolute majority vote of those members present at the meeting (therefore, no majority = no co-option).

6.5 If there are more candidates (with a majority vote) than vacancies, then the voting process will take place again to determine the successful candidate(s).

6.6 If there are exactly as many as, or fewer candidates than vacancies, the Town Council may vote on a composite motion, duly proposed and seconded, that all candidates be co-opted.

6.7 The vote will take place as per Standing Orders section 10 ‘Voting on Appointments’:

a. Where two or more persons have been nominated for a position by the Council and none of those persons has an absolute majority of votes in their favour, the person having the least number of votes shall be struck off the list and a fresh vote taken.

b. This process shall continue until a majority of votes is given in favour of one person. Any tie may be settled by the Chair’s casting vote.

6.8 If at the end of voting, there is a vacancy where no candidate has received a majority vote, then the vacancy may remain unfilled. The Council will then reconsider at the next suitable Council Meeting what steps they wish to take to continue with the co-option process.

6.9 After the vote has been concluded, the Chair will declare the successful candidate(s) duly appointed. Examples of how voting will take place can be found in Annex D.

7. Declaration of Acceptance of Office

7.1 Those co-opted must sign a declaration of acceptance of office before they can join any meeting of the Council as a member.

8. Term of Office

8.1 A person co-opted to fill a casual vacancy holds office until the person resigns or at the next ordinary elections.

8.2 A co-opted Councillor is not eligible to claim the Councillor allowance. This is national law, not a local rule.

9. Notification of Co-option

9.1 The Clerk will notify the Democratic and Electoral Services Team at South Hams District Council of the new member(s) appointment. The new member(s) must complete a Register of Interest within 28 days of being coopted and prior to taking part in any Council meetings in their Councillor role. These will be sent to the Democratic and Electoral Services Team at South Hams District Council.

ANNEX A – CO-OPTION (TAKEN FROM THE DEVON ASSOCIATION OF LOCAL COUNCILS (DALC) WEBSITE)

Co-option provides a way for councils to fill those post-election vacancies that might arise on their council following an election, or the casual vacancies that arise after a councillor loses their seat.

What is co-option?

Co-option is a process by which a vacant seat on a parish or town council is filled by appointment rather than an election. It is often necessary to ensure a council is fully constituted and able to carry out its duties.

Vacancies can arise for various reasons such as insufficient candidates at an election, resignations and disqualifications. Vacancies which occur due to a councillor's departure mid-term are called casual vacancies.

Co-option due to insufficient candidates at election

If following an election the council has less members than seats available, but remains quorate*, co-options may be required to fill the vacant seats.

**A council's quorum is the minimum number of seats a council must have filled in order to carry out its business. This is three, or a third of the total number of seats, whichever is greater (the figure is rounded up where applicable).*

Is your council inquorate? If your council is inquorate then you cannot co-opt and we would suggest you contact DALC for guidance.

What is the difference between a post election vacancy and a casual vacancy?

	Post-election vacancy	Casual vacancy
What is it?	Vacancies immediately following an election due to an insufficient number of candidates nominated.	Vacancies following the departure of a councillor mid-term due to resignation or other reasons, as stated in the Local Government Act 1972 s87.
Do we need to post a notice of the vacancy?	No, the council does not need to post a notice of the vacancy. However we'd still recommend advertising to attract potential candidates (more below).	Councils must contact the district council in the event of a casual vacancy. The council must give notice of the vacancy, displayed in a prominent place in the parish for at least 14 days (excluding bank holidays etc), allowing electors to request a by-election*. If no by-election is requested, the district council will confirm the council may co-opt, at which point you may want to advertise for potential candidates. <i>*by-elections will not be called when a vacancy occurs within six months of an ordinary election.</i>
When do we need to fill the seats?	The council has 35 working days to co-opt from the date of the election. If they do not fill the vacancies within the timeframe, the district council <u>may</u> take action to fill the seats.	There is no statutory deadline, but councils are encouraged to fill its seats as soon as practically possible; the community deserves full representation.

What process should we follow?	If you have an established co-option process, whether that's a written procedure or just precedent, we would advise councils to follow a consistent process for both vacancy types.
Who is eligible to stand?	Anyone wishing to join the council via co-option must be eligible under s.79 of the Local Government Act 1972 and not disqualified under s.80 of the Local Government Act 1972 . These resources from the Electoral Commission may be helpful.

Frequently Asked Questions for Casual Vacancies

When can we co-opt?

With casual vacancies; when a councillor resigns or loses their seat (Local Government Act 1972 s.80) during the term of office, you will need to inform the district council. They will give you a notice of vacancy, which lets members of the public know that a vacancy has arisen and gives them the opportunity to request a by-election. If a by-election is requested by 10 or more electors, then the district council will proceed. Otherwise, they will let you know that you are now free to co-opt and you can start your co-option process.

If the casual vacancy has arisen within 6 months prior to an ordinary election (next elections will be in 2027!) then the council does not need to contact the district council and does not need to co-opt (although can still do so if they wish!).

Do we have to advertise vacancies?

We recommend advertising vacancies and encouraging people to come forward; this is different from the statutory notices for casual vacancies where by-elections may be called. Advertising widely through a variety of mediums, increases the chance of the council having a choice of candidates and allows the council to be sure it has got the best representatives for the community.

When can we advertise?

With casual vacancies, you can start advertising when the district council has told you that you can go ahead and co-opt since no by-election has been requested.

What is the co-option process?

There is no statutory procedure for how councils undertake their co-options. It is advisable to have an agreed procedure to ensure fairness, transparency and consistency. NALC would suggest that you get candidates to confirm their eligibility in writing; you may need to investigate or obtain evidence if that is challenged.

There are a range of ways that councils can find out more about proposed candidates including:

- Application form – asking candidates to complete an application form, perhaps giving more information about themselves
- Interviews – either with the full council or with a committee of the council (only the full council can make the decision to co-opt)

- Written statement – ask candidates to submit a written statement explaining what they would bring to the council
- In-person statement – ask candidates to address a meeting of the council explaining what they would bring to the council

Whatever you choose, the process must be open to all eligible candidates. Consistency will be key and ensures that all candidates are treated fairly.

Who makes the decision about co-option?

Only the full council can make the decision about who to co-opt; it cannot be delegated to either a committee or to an officer of the council. If the council is inquorate then it will not be able to co-opt and will need to contact the district council for support.

How do we vote on co-options?

Voting, as with all council decisions, is by show of hands unless the council has provided otherwise in their standing orders. Secret ballots may only be used if standing orders allow for them.

It is difficult to justify the need to exclude the press and the public (including the candidates) while a council makes its decision on who to co-opt; choosing a public representative is expected to be a public and transparent affair. Therefore co-options should not be considered in confidential session.

If we only have one candidate for a vacancy, do we have to accept them?

It is NALC's view that where there is the same number, or less, of candidates than there are vacancies, then they shall be co-opted on to the council. If the council is concerned about lack of choice, then advertising a vacancy widely within the community may be helpful.

We have more candidates than vacancies, how do we choose?

By referring to the information from the candidates application forms, interviews and/or presentations, the council can determine which individual(s) will be best suited for the council in a consistent and fair manner.

When voting there must be a clear majority for a candidate(s) in order to co-opt. Where there are three or more candidates for one seat and a vote is tied, the candidate with the fewest votes shall be removed from consideration and the vote repeated until a majority can be achieved.

The Council doesn't like an applicant, can we reject them?

It is NALC's view that if an eligible person has come forward for a vacancy, then they shall be co-opted to the council. If they had nominated themselves in an uncontested election they would have had gained the seat, so it's difficult for the council to refuse an eligible candidate and will likely be subject to challenge if they do so.

What if we cannot find any candidates?

With post-election vacancies, if the power of co-option is not used within 35 working days of the election then the principal authority (the district council) has powers to step in to fill the vacancies. This might include holding a further election (at cost to the council) or may

involve other acts such as appointing temporary councillors, or requiring that you post a notice of vacancy to allow a by-election to be requested. Your district council will be able to advise at the time.

With casual vacancies, we'd recommend trying again until you are able to fill those seats. Perhaps try a new approach; more advertising or reaching out directly to people who might be interested.

What happens after a co-option?

Just like elected councillors, co-opted councillors must sign a declaration of acceptance of office at or before their first meeting, and must submit their register of interests within 28 days of their co-option. It is advisable that co-opted councillors do not take office until the end of the meeting at which they are appointed.

The clerk should notify the returning officer at the district council that a co-option has taken place as soon as practically possible after the meeting at which they are appointed.

All co-opted councillors should be given the same opportunities in regards to induction and training, as elected councillors.

Are co-opted councillors different to elected councillors?

No; a co-opted councillor will participate in council business in the same way as elected councillors. There are no restrictions to the roles they may perform i.e. membership of committees, election of chairman/mayor etc.

However, co-opted councillors will not count as an 'elected' councillor for the purposes of the General Power of Competence (although councillors appointed at uncontested election will).

For those councils which provide an allowance to their members, **not** including the Chair's Allowance, please be aware that co-opted members are not eligible to receive the allowance.

ANNEX B – CO-OPTED COUNCILLOR APPLICATION FORM

Full Name:	
Address:	
Telephone Number (s):	
Email Address:	

Please briefly explain why you are interested in becoming a Town Councillor.
Please tell us something about what experience you can bring to Totnes Town Council, for example professional or voluntary/charitable work/roles, previous local government experience, business experience.

Please tell us something about skills you can bring to the Council, for example professional qualifications, financial or project management expertise.

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Is there any other information you would like to add in support of your application?

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Are there any questions you would like to ask the Town Council?

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Signed:

Print:

Date:

ANNEX C – ELIGIBILITY FORM

Are you a British citizen, an eligible Commonwealth citizen, a citizen of the Republic of Ireland, a qualifying EU citizen or an EU citizen with retained rights?	YES/NO
On the 'relevant date' (i.e. the day on which you are nominated or if there is a poll the day of the election) are you 18 years of age or over?	YES/NO

Please tick those below which apply to you (nb Totnes includes Town and Bridgetown wards)

I am registered as a local government elector in Totnes; or	
I have, during the whole of the twelve months preceding the date of my co-option, occupied as owner or tenant, land or other premises in Totnes; or	
My principal or only place of work has, during the whole twelve months preceding my co-option, been in Totnes; or	
I have during the whole of twelve months preceding my co-option lived in Totnes or within 3 miles of it.	

Under Section 80 of the Local Government Act 1972 a person is **disqualified** from being elected as a Local Councillor or being a member of a Local Council if specific criteria are not met:

Are you an employee of Totnes Town Council?	YES/NO
Are you the subject of a bankruptcy restrictions order or interim order?	YES/NO
Have you within the last five years been convicted of an offence in the UK, Channel Islands or Isle of Man which resulted in a sentence of imprisonment (whether suspended or not) for a period of three months or more without the option of a fine;	YES/NO
Are you disqualified by order of an election court from being a member of a local authority under the Representation of the People Act 1983?	YES/NO
Are subject to the notification requirement of or under Part 2 of the Sexual Offences Act 2003?	YES/NO

Declaration

I.....hereby confirm that I am eligible for the vacancy of Totnes Town Councillor, and the information given on this form is a true and accurate record.

Signed:

Print:

Date:

ANNEX D – EXAMPLES OF CO-OPTION VOTES

Note: to be co-opted, the candidate must receive an absolute majority of the votes available/those present at the meeting, 50 percent plus 1. Voting is by a show of hands with one vote cast by each Councillor in each round of voting.

Example - One Candidate for One Vacancy

All 15 councillors are present and eligible to vote in one round of voting. The absolute majority for the candidate to be co-opted is to receive 8 votes (50 percent (7) plus 1). The Clerk asks for those voting in favour of co-opting the candidate, against and abstentions. For example:

Scenario 1 - 8 vote in favour of co-option, 2 against and 5 abstentions = candidate co-opted as absolute majority reached.

Scenario 2 - 6 vote in favour of co-option, 5 against and 4 abstentions = no co-option as no absolute majority.

Example – Three Candidates for One Vacancy

While there are 15 sitting councillors, only 13 are present and eligible to vote in each round of voting. The absolute majority for the candidate to be co-opted is to receive 7 votes (50 percent (6) plus 1). The Clerk explains that in each round, if more than one round of voting is required, each Councillor has one vote to cast for one of the three candidates. The Clerk will ask for those voting in favour of co-opting the candidate and abstentions, over potentially two rounds. For example:

Scenario 3 – Round 1: 7 votes in favour of candidate A, 3 votes in favour of candidate B, and 3 votes in favour of candidate C = candidate A co-opted as absolute majority reached.

Scenario 4 – Round 1: 4 votes in favour of candidate A, 6 votes in favour of candidate B, and 3 votes in favour of candidate C = no absolute majority reached, the candidate with the fewest votes (candidate C) drops out and a second round of voting is held.

Round 2: 6 votes in favour of candidate A, and 7 votes in favour of candidate B = candidate B co-opted as absolute majority reached.

or Round 2: 6 votes in favour of candidate A, and 6 votes in favour of candidate B, 1 abstention = tie and Chair to have the casting vote.

Example 3 – Three Candidates for Two Vacancies

All 14 councillors are present and eligible to vote in each round of voting. The absolute majority for the candidate to be co-opted is to receive 8 votes (50 percent (7) plus 1). The Clerk explains that in each round, if more than one round of voting is required, each Councillor has one vote to cast for one of the three candidates. The Clerk will ask for those voting in favour of co-opting the candidate and abstentions, over potentially two rounds. For example:

Scenario 5 – Round 1: 3 votes in favour of candidate A, 3 votes in favour of candidate B, and 8 votes in favour of candidate C = candidate C co-opted as an absolute majority reached.

Round 2: 4 votes in favour of candidate A, 8 votes in favour of candidate B and 2 abstentions = candidate B co-opted as an absolute majority reached.

Scenario 6 – Round 1: 2 votes in favour of candidate A, 5 votes in favour of candidate B, and 7 votes in favour of candidate C = no absolute majority reached, the candidate with the fewest votes (candidate A) drops out and a second round of voting is held.

Either

Round 2: 6 votes in favour of candidate B, 8 votes in favour of candidate C = candidate C co-opted as an absolute majority reached.

Round 3: 9 votes in favour of candidate B, 5 abstentions = candidate B co-opted as an absolute majority reached.

Or

The Council may vote on a composite motion, duly proposed and seconded, that the two remaining candidates be co-opted which must receive an absolute majority of votes (50 percent plus 1) to be carried.