

TRURO CITY COUNCIL



CITY OF TRURO

Roger Gazzard
Town Clerk

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F6/3/RG/RD

July 2019

YOU ARE HEREBY SUMMONED TO ATTEND A SPECIAL MEETING OF THE TRURO CITY COUNCIL TO BE HELD AT 7.00 pm ON MONDAY 15 JULY 2019

in Truro Public Library (top floor), Union Place, Truro
For the transaction of the under-mentioned business:-

- 1 **Apologies of Absence**
Apologies of absence to report
- 2 **Disclosure or Declarations of Interest**
Councillors will be asked to make disclosures or declarations of interest in respect of items on this agenda
- 3 **Open Session for Electors of Truro – Verbal Questions (15 minutes)**
This is an opportunity for electors to raise issues with the Council. The Council is unable to make any resolutions at this meeting on any issues raised
- 4 **Procedures for Co-Option** *(Appendix 'A')*
Councillors to consider the attached paper outlining legislation and guidance for co-option and to agree on procedures for the current casual vacancy.
- 5 **Devolution of Truro Public Library**
The Town Clerk to make a presentation to Councillors on the current proposal for the devolution of the Library Service and the building. No decisions will be requested at the meeting but it is anticipated that by the full council on the 29th July the legal work will be sufficiently advanced for the Council to make final decisions.
- 6 **Date of Next Meeting**
N/A

ROGER GAZZARD
TOWN CLERK

REVIEW OF CO-OPTION OF COUNCILLORS PROCEDURE

Following the full Council meeting held on 24th June 2019, here is my analysis and recommendations relating to the procedure for the co-option of councillors that should be adopted by Truro City Council.

Introduction

Co-option of Councillors is not specifically mentioned in either legislation or Truro City Council's Standing Orders. However, there are two statutes that govern the process, guidance from the NALC and one of the Council's Standing Orders can be used as a basis for the procedure to follow.

Further, the Town Clerk and his staff have researched best practice from other councils. The Council should be seen to be as open, fair and transparent as possible in the process it follows, so that it does not open itself to the possibility of legal challenge.

Legislation

The Local Government Act 1972 schedule 12 paragraph 13:

13 (1) Unless otherwise provided by the council's standing orders the manner of voting at meetings of a parish council shall be by a show of hands.

(2) On the requisition of any member of the council the voting on any question shall be recorded so as to show whether each member present and voting gave his vote for or against that question.

Paragraph 39:

39 (1) Subject to the provisions of any enactment (including any enactment in this Act) all questions coming or arising before a local authority shall be decided by a majority of the members of the authority present and voting thereon at a meeting of the authority.

(2) Subject to those provisions in the case of an equality of votes, the person presiding at the meeting shall have a second or casting vote.

Truro City Council's Standing Orders

Standing Order 3(s):

- s **Unless standing orders provide otherwise, voting on a question shall be by a show of hands. At the request of a councillor, the voting on any question shall be recorded so as to show whether each councillor present and voting gave his vote for or against that question.** Such a request shall be made before moving on to the next item of business on the agenda.

Standing Order 8(a): **Voting on appointments**

- a Where more than two 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. A tie in votes may be settled by the casting vote exercisable by the chairman of the meeting.

This standing order matches the one from the NALC's model standing orders. There is no provision in the Standing Orders for a secret ballot.

Other Councils

Here are three comments from other councils on the procedures they follow:

- (a) I cannot imagine anything more likely to create bad feeling among the public than closed interviews for a co-option, followed by a secret ballot vote. If people aren't prepared for some sort of challenge why would they be willing to be considered as candidates for co-option? After all, if they stood for election, they would face a grilling on the doorsteps and at hustings.

We invited four candidates to make speeches, timed to five minutes. No q + a to avoid any suggestion of planted questions or anything like that. Then we voted to eliminate the least popular, then again to go down to two, then a final time to find a winner. All in public and all by show of hands.

In terms of q + a there is also an advantage going first, if you give a really good answer everyone else just has to repeat it or say they agree which can leave them looking a bit limp. If you are going to do that then every question should be to every candidate to avoid personal favours or hatchet jobs, and maybe mix up the order of answering rather than sticking to alphabetically, so Aaron Aardvark doesn't get in first every time.

(b) We have co-opted before and we did this in open session for total transparency. We did not interview them though, they were all asked to send in a written statement which gave a brief potted history, why they wanted to become a member of the Town Council and what skills they will be 'bringing to the table'. I read out the names of all the co-option candidates and then read out each statement in turn but in random order, but did not identify the individuals name at that point. The problem with this is that it doesn't allow for a question and answer session.

If there are two or more candidates in an election process, our Standing Orders state that it will be conducted by written ballot. I open the papers, count the votes, which are verified by the Deputy Town Clerk who is with me, and then I hand the winner to the Chairman to publicly announce the name of the co-opted councillor.

(c) In the past when we have done this, I have suggested that the other candidates remain outside of the chamber whilst interviews are being done, but any member of the public who is not a candidate can stay. I agree with your members that the process should be transparent and fair so it should be in public session with the arrangement as above.

As far as voting is concerned, that should be governed by your Standing Orders. If they permit a secret ballot under certain circumstances, or when resolved by members - then fine. If Standing Orders don't permit it then you are on slightly stickier ground I would suggest. Technically you could resolve to suspend standing orders to allow it but that will look messy and less transparent.

Conclusion

Clearly, due to legislation and the absence of a Standing Order permitting it, voting cannot be by secret ballot. The winning candidate must achieve 50% plus of the votes of those present. I consider the Council should adopt new Procedural Guidance to cover future co-options.

Recommended that until new Procedural Guidance has been adopted,

(a) Prior to the agenda being distributed for the co-option meeting, candidates are invited to submit a personal statement setting out their experience, skills and why they want to join the City Council. These are circulated to Members together with the notice and agenda. Each candidate shall be asked to address the meeting for no longer than five minutes (the order to be decided by lot).

(b) One of the following interview procedures shall be selected:

Option 1 – The Mayor will ask all the candidates randomly the same questions, selected from those submitted by Members to the Town Clerk before the meeting.

Option 2 – No questions are asked of the candidates.

(c) Voting shall be by show of hands unless a recorded vote is requested under Standing Order 3(s).

(d) the Council follows the NALC's guidance for the co-option of councillors as set out in Legal Topic Note 8, paragraph 37:

"Where there are more than two candidates for one vacancy, this rule means that a person must get a majority of votes over all the other candidates. Thus where candidate A receives four votes, and

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candidates B and C each receive two, A is not elected because he has the same number of votes as B and C put together and does not have a majority over their combined votes. Where there are more than two candidates it is desirable to eliminate the candidate with the least number of votes, so the final vote is between two candidates only. Councils may use NALC's model standing order 8a to confirm the voting process for a casual vacancy where contested. An abstention is not a vote and not part of the count."

Cllr C.H. Wells