



## Policy For Appointment Of A Non-Councillor

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## Policy For Appointment Of A Non-Councillor

The Policy For Appointment Of A Non-Councillor was adopted by the Council (the “Council”) at its Council Meeting held on 12 July 2023.

### 1. Introduction

Non-Councillor members may be appointed to a Committee (or Sub-committee) because they can offer specialist knowledge, expertise or enthusiasm in the work of the Committee (or Sub-committee) or because they represent sections of the local community that are relevant to the work of the Committee (or Subcommittee). For example an open spaces or recreational facilities Committee may include Non-Councillors who represent local sports clubs or schools.

s.102(3) of the Local Government Act 1972 provides that a local council can appoint persons who are not its members to Committees and Sub-committees.

This Policy sets out the requirements and processes for the appointment of Non-Councillors.

### 2. Types Of Committee

Non-Councillors may be appointed to different types of Committee:

- 2.1 Committees (and Sub-committees) that are appointed to discharge the functions of a council. However such Committees (and Sub-committees) must include at least one councillor (section 102(3) of the Local Government Act 1972) (‘the 1972 Act’); and
- 2.2 Advisory Committees (and Sub-committees) that are appointed to advise a council in any matter relating to the discharge of their functions (pursuant to s. 102(4) of the 1972 Act). Advisory Committees (and Sub-committees) may be wholly comprised of persons who are not members of the council. In practice and dependent on their terms of reference, advisory Committees are usually comprised of both councillors and those who are not members of the council.

The power to appoint Non-Councillors is drafted very broadly and applies to the Council’s Committees and Sub-committees, other than “a committee for regulating and controlling the finance of the local authority or of their area”.



Council's Standing Orders and the Terms of Reference of each Committee or Sub-committee will determine whether each Committee or Sub-committee:

- (a) is appointed to discharge the functions of a council, or
- (b) is advisory,

and the number and terms of Non-Councillors who may be appointed. All working groups, groups, task and finish groups, panels, and all similar bodies which Council may establish from time to time, will be considered as advisory.

### **3. Voting Rights**

By virtue of s.13(1) and (7) of the Local Government and Housing Act 1989 ('the 1989 Act'), Non-Councillor members of Committees and Sub-committees do not have voting rights. There are 5 important exceptions to this rule:

- 3.1 ss.13(3) and (4)(e) of the 1989 Act confirm that Non-Councillor members of advisory Committees and Sub-committees have voting rights.

Regulation 3 of The Parish and Community Councils (Committees) Regulations 1990 (SI 1990/2476) confirms that Non-Councillor members of Committees and Sub-committees have voting rights in respect of:

- 3.2 the management of land owned or occupied by the council;
- 3.3 any function under s. 144 of the 1972 Act relating to the promotion of tourism; and
- 3.4 any function under s. 145 of the 1972 Act relating to the management of a festival.

The term "management" does not include making decisions about the total amount of money which may be spent by the council in a financial year in respect of land or a festival.

### **4. Qualification and Disqualification**

- 4.1 It is the Council's policy that persons seeking appointment as a Non-Councillor shall be required to meet the same qualifications as persons seeking election or co-option, which include:
  - (i) They must be at least 18 years old, and
  - (ii) They must be a British citizen, an eligible Commonwealth citizen or a citizen of any member state of the European Union  
and meet at least one of the following four qualifications:
    - (iii) They are, and will continue to be, registered as a local government elector in the Community Council's area from the day of their nomination onwards.
    - (iv) They have occupied as owner or tenant any land or other premises in the Community Council's area during the whole of the 12 months before the day of their nomination and the day of their appointment.
    - (v) Their main or only place of work during the 12 months prior to the day of their nomination and the day of their appointment has been in the Community Council's area.
    - (vi) They have lived in the Community Council's area or within three miles of it during the whole of the 12 months before the day of their nomination and the day of their appointment.



- 4.2 Persons seeking appointment must read the further details found in Parish and Community Council Elections in England and Wales Guidance for Candidates published by the Electoral Commission (<https://www.electoralcommission.org.uk/sites/default/files/2022-01/Overview%20Parish%20LGE.pdf>)
- 4.3 Persons seeking appointment as a Non-Councillor **are disqualified** if:
- 4.3.1 They are employed by the Community Council or hold a paid office under the Community Council (including joint boards or committees).
  - 4.3.2 They are the subject of a bankruptcy restriction or interim order.
  - 4.3.3 They hold what is known as a politically restricted post.
  - 4.3.4 They have served a prison sentence (including a suspended sentence) of three months or more within five years of their appointment.
  - 4.3.5 They have been disqualified from holding office as a result of an election offence relating to corrupt or illegal practices.
  - 4.3.6 They are subject to the notification requirement of or under Part 2 of the Sexual Offences Act 2003, and the ordinary period allowed for making an appeal or application in respect of the order or notification has passed
- 4.4 It is a criminal offence to make a false statement on nomination papers as to qualification for being nominated as a Non-Councillor.
- 4.5 For the purposes of this Policy, the date of election is the date at which the Council resolves to appoint the applicant.
- 5. Application**
- 5.1 Each Committee or Sub-committee may resolve to seek to appoint one or more Non-Councillors by resolution at a meeting of that Committee or Sub-committee and shall draw up a specification of the skills sought or how a Non-Councillor would represent sections of the local community that are relevant.
- 5.2 The Council will make the vacancy as widely known as possible within the area and will provide the contact details of someone who can advise on the responsibilities and time commitments involved and to specify the date by which applications should be received.
- 5.3 All candidates must submit an application using the form in Annex 1, not later than a date determined by the Clerk to the Council. Legible electronic copies will be accepted.
- 5.4 The Committee or Sub-committee will review all applications received and will make recommendations to Council for which applicants, if any, they wish to appoint.
- 5.5 Council will consider the recommendations of the Committee or Sub-committee at its next suitable meeting and will resolve to appoint applicants who receive an absolute majority vote of the Councillors present and voting, in accordance with the adopted Standing Orders.
- 6. Code of Conduct, Standing Orders and Financial Regulations**
- 6.1 Non-Councillor members of a Committee or Sub-committee are subject to the Council's Code of Conduct if they are entitled to vote on any question which falls to be decided at any meeting of the Committee or Sub-committee.



6.2 Non-Councillor members of Committees or Sub-committees will be required to comply with the Council's Standing Orders and Financial Regulations. They will have the same rights as members of the public to attend meetings of the council or other Committees of which they are not members. This applies to all Non-Councillor members of Committees – even where they are councillors of other authorities.

## 7. Termination of appointment as Non-Councillor

Any appointment to the position of Non-Councillor will terminate at the earliest of the following:

- 7.1 At the date of the next Ordinary Election of the Council
- 7.2 On resolution of the Council to dissolve a Committee or a Sub-committee
- 7.3 On completion of the agreed work of a Committee or a Sub-committee
- 7.4 On resolution of a Committee or a Sub-committee to dissolve itself
- 7.5 Failure of a Non-Councillor to attend any meeting of the Committee or Sub-committee to which they are appointed for six consecutive months from the date of their last attendance
- 7.6 By resolution of Council

## 8. Documents to be completed by Councillors

- 8.1 All Non-Councillors must complete a 'Register of Interests' form to give details about any property or land they own in the Community Council's area, any financial interests, and any other bodies that they belong to/carry out work for, in order to reveal any matters that they have an interest in, should the Council be called upon to make a decision in that area.
- 8.2 The Clerk to the Council will provide the forms for the new Councillor to complete. Completed Register of Interests forms should be copied and the copies retained by the Clerk to the Council.
- 8.3 The originals should be sent to the Monitoring Officer, Ashford Borough Council, Civic Centre, Tannery Lane, Ashford, Kent TN23 1PL

## 9. Revision History

Version	Date	Comments
Draft v0.1	7 Feb 2021	Initial draft for comment
Draft v0.2	3 Mar 2021	Minor amends following FGP review
Draft v0.3	10 Mar 2021	Addition of adoption at Council date 10.03.21
Version 2.00	10 Mar 2021	Adopted at Council
Version 3.00	14 June 2023	Adopted at Council 14 June 2023
Draft 3.1	7 July 2023	Update to disqualification text, addition of Non-Councillors appointed to external bodies
Version 4.00	12 July 2023	Adopted at Council

**Policy Adopted: [date]**

**Review due: 1 May 2024**



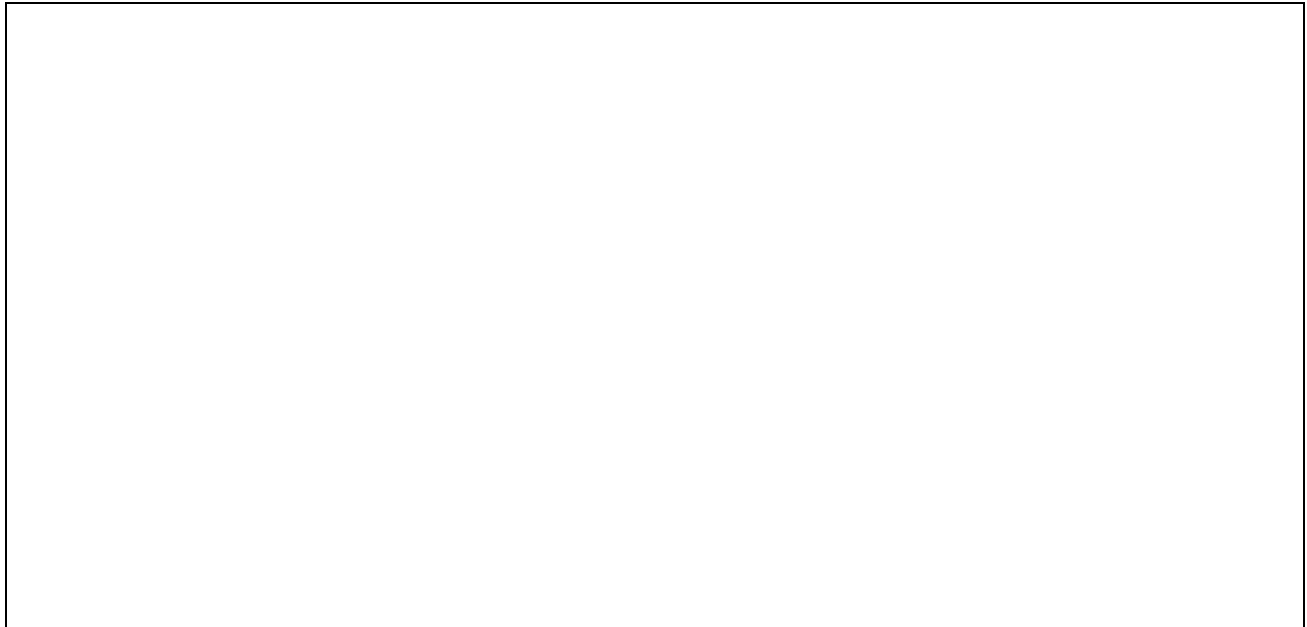
## Annex 1 APPOINTMENT OF A NON-COUNCILLOR – Application Form

This form is to be completed in accordance with the Council's Policy For Appointment Of A Non-Councillor

<b>APPLICATION FOR APPOINTMENT AS A NON-COUNCILLOR</b>	
<b>PART 1: THIS SECTION WILL ONLY BE SHARED WITH THE COMMUNITY COUNCIL CLERK</b>	
<b>FULL NAME</b>	
<b>ADDRESS</b>	
<b>Ashford Borough electoral ward in which you are registered to vote:</b>	
Home phone no:	
Mobile phone no:	
e-mail address	
<b>TO BE SIGNED BY APPLICANT</b>	
<p>By submitting this application I confirm that I have read the Electoral Commission's <i>Guidance for Candidates for Parish and Community Council Elections in England and Wales</i> and confirm that:</p> <p>a) I am at least 18 years old, and</p> <p>b) I am a British citizen, an eligible Commonwealth citizen or a citizen of any member state of the European Union, and</p> <p>c) I am qualified to stand for this post for the following reasons (tick all that apply):</p> <p><input type="checkbox"/> I am, and will continue to be, registered as a local government elector in the Community Council's area</p> <p><input type="checkbox"/> I have occupied as owner or tenant any land or other premises in the Community Council's area during the whole of the previous 12 months</p> <p><input type="checkbox"/> my main or only place of work has been in the Community Council's area during the whole of the previous 12 months</p> <p><input type="checkbox"/> I have lived in the Community Council's area or within three miles of it during the whole of the previous 12 months</p> <p>d) I am not disqualified in any way from applying for this post</p> <p>e) If appointed to an external body, I agree to be bound by their terms</p>	
<b>Applicant's Signature</b>	<b>Checked by Clerk to the Council</b>
<p>X</p> <hr/> <p>Applicant</p>	
<b>Date</b>	<b>Date</b>



<b>APPLICATION FOR APPOINTMENT AS A NON-COUNCILLOR</b>			
<b>PART 2: THIS SECTION WILL BE REVIEWED BY ALL CURRENT COUNCILLORS AND MAY BE DISCUSSED AT A MEETING IN PUBLIC</b>			
FULL NAME, OR NAME YOU ARE COMMONLY KNOWN BY:			
Summary of qualifications to stand (please tick all that apply)			
Registered as a local government elector in the Community Council's area	Occupied as owner or tenant any land or other premises in the Community Council's area	Main or only place of work has been in the Community Council's area	Lived in the Community Council's area or within three miles of it
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Name of Committee or Sub-committee (including working group, group, task and finish group, panel, and all similar bodies) applied to, or external body to be appointed to:			
Why do you wish to become a Non-Councillor for the Community Councillor? (limit 200 words)			
What skills and aptitudes or local knowledge will you bring to the position of Non-Councillor? (limit 200 words)			



**END**