

# MODEL SCHEME FOR THE ESTABLISHMENT OF COMMUNITY COUNCILS IN SCOTLAND

## 1. Introduction

Community Councils were first established in Scotland following the Local Government (Scotland) Act 1973. Thereafter, the Local Government etc. (Scotland) Act, 1994, which produced the current system of unitary local authorities, made provision for the continuation of community councils. Under the legislation, every local community in Scotland is entitled to petition their local authority to establish a community council in their area.

The Model Scheme for Community Councils in Scotland is designed to enable the establishment of community councils across Scotland to provide a common minimum basic framework governing their creation and operation.

## 2. Statutory Purposes

The statutory purposes of community councils established under the Model Scheme are set out in Section 51 (2) of the Local Government (Scotland) Act 1973, as follows: -

***“In addition to any other purpose which a community council may pursue, the general purpose of a community council shall be to ascertain, co-ordinate and express to the local authorities for its area, and to public authorities, the views of the community which it represents, in relation to matters for which those authorities are responsible, and to take such action in the interests of that community as appears to it to be expedient and practicable”***

## 3. The Role and Responsibilities of Community Councils

The general purpose of community councils is to act as a voice for their local area. This will involve them articulating the views and concerns of local people in their area on a wide range of issues of public concern and make representations to their local authority, other public sector bodies and private agencies on matters within their sphere of interest.

It is essential that these views be demonstrated to be accurately representative of the community. Accordingly, the community council will have in place, in consultation with the local authority, recognised consultative mechanisms to validate their views and devise strategies to secure greater involvement by all sectors of the community.

Community councils have a statutory right to be consulted on planning applications. Licensing matters and any other matters may also be jointly agreed between community councils, the local authority and other public sector and private agencies.

Community councils may carry out other activities that are in the general interests of the communities they represent, provided these activities fall within the objects of their Constitution and the terms of the Council's Scheme for the Establishment of Community Councils.

There should be mutual engagement in the establishment of working relationships with the local authority and other agencies.

In carrying out their activities community councils must at all times adhere to the law, the terms of the Council's Scheme for the Establishment of Community Councils and the Community Councillors' Code of Conduct.

Each community council is required to adopt a Constitution, based upon the Model Constitution (Appendix I), which has been produced for national use, together with Model Standing Orders (Appendix II), to encourage and maintain consistency for all community councils and to facilitate their proceedings being properly structured and regulated, to ensure that items of business relevant to the community are properly debated and decisions reached in a democratic manner. The community council's Constitution is required to be approved by the local authority.

Community councils have a duty under statute to represent the views of their local community. It is vital therefore, that they reflect the broad spectrum of opinion and interests of all sections of the community. In order to fulfil their responsibilities as effective and representative, community councils shall: -

- Inform the community of the work and decisions of the community council by posting agendas and minutes of meetings in public places, such as libraries and notice boards and, subject to the provisions contained within the Data Protection Act 1998, provide contact details of community council members.
- Agendas and draft minutes of community councils' meetings must be presented to the local authority within 14 days from the date of that meeting and be circulated to community council members, relevant elected members and other interested parties.
- Seek to broaden both representation and expertise by promoting the Associate Membership of the community council of persons for specific projects/issues.

- Make particular efforts to encourage young people and other under-represented groups to attend/participate in community council meetings and to ensure equality of opportunity in the way the community council carries out its functions.
- Maintain proper financial records and present financial reports at community council meetings. An example of a standard format for community councils' financial record-keeping is featured in the Guidance Notes accompanying the Model Scheme.
- Inform the local authority of any change in membership (resignations, Associate Membership, etc.) and circumstances, as soon as is practicable.

#### **4. Community Council Areas within Local Authority Areas**

The local authority has produced a list of named community council areas and a map or maps that define their boundaries. The list of community areas is attached as Appendix III to the Scheme.

#### **5. Membership of Community Councils**

There shall be minimum and maximum membership numbers of elected community councillors in a community council. Due to the diverse nature of local authority areas, where there may be areas of sparse population relative to geographical disposition, such as island communities, each local authority may set its own formula for the definition of a minimum and maximum number of community council members in any community council area.

The minimum age to stand for election as a community councillor is 16 years. Qualification for membership is by residency within the specific community council area. Community councillors and candidates for community council membership must also be named on the electoral register for the community council area in which they reside. There shall be provision made for non-voting Associate Membership for purposes as defined by each community council. For example, for persons under 16 years of age. Such persons will not be counted in terms of meeting a quorum, or towards the total number of community council members.

Elected members of the local authority and members of the Scottish, United Kingdom and European Parliaments are entitled to become *ex-officio* members of community councils, with no voting rights. A broad outline of the remit and responsibilities of each of these institutions is featured in the Guidance Notes accompanying the Model Scheme.

## **6. Establishment of Community Councils under the Model Scheme**

Upon the local authority's revocation of its existing Scheme for the Establishment of Community Councils and decision to make a new Scheme, it shall publish a Public Notice, which shall invite the public to make suggestions as to the areas and composition of the community councils. Thereafter, a consultation process shall be undertaken prior to its formal adoption by the local authority.

## **7. Community Council Elections**

### **Eligibility**

Candidates wishing to stand for election to a community council must reside in the local area and be named on the Electoral Register for that area. The same criteria shall apply to voters in a community council election.

Sixteen and 17 year-olds residing in the community council area and named on the Electoral Register for that area are also entitled to both stand for the community council and vote in any election. A supplementary electoral register may be compiled in circumstances relative to 16 and 17 year-olds and for new residents.

Any community council member who no longer resides within that community council area is deemed to have resigned from that community council.

Any individual who is elected to serve on this local authority, or the Scottish, UK or European parliament shall be ineligible to remain a community councillor, or to stand for election to a community council. Such persons, upon taking office, become *ex-officio* members of the community councils contained in whole or in part of their electoral constituency.

### **Nominations and Elections**

The first elections to be held under the Scheme shall be held on a date to be determined by the local authority.

Subsequent elections will be held on a four-yearly-cycle, outwith local government election years, on dates to be determined by the local authority. Where the number of established community councils exceeds a level to be determined by the local authority, elections for a proportion of the total number of established community councils within the 4-yearly cycle may be arranged. Should community councils' election cycle fall in the year of Scottish local government or parliamentary elections, the electoral proceedings will be held in the following year.

The local authority will administer all elections.

## Returning Officer

The local authority will appoint an Independent Returning Officer. The Independent Returning Officer must not be a current elected member of that community council nor intending to stand for election to that community council.

## Nominations

Individuals seeking election to a community council require to be nominated by a proposer and seconder, both of whom must be on the Electoral Register for that community council area. Nominations require to be submitted with the candidate's consent. Self-nomination is not permitted.

A nomination form should be completed, the style of which will be described within the Guidance Notes. Nomination forms require to be submitted on the date set down in the election timetable. No nomination forms submitted after that date will be accepted.

## Process

On the expiry of the period for lodging nominations:

1. Should the number of candidates validly nominated equal or exceed **HALF**, but be less than or equal to the total maximum permitted membership as specified for the community council area in Appendix IV of the Scheme, the said candidates will be declared to be elected and no ballot shall be held.
2. Should the number of candidates validly nominated exceed the total maximum permitted membership as specified for the community council area, arrangements for a Poll shall be implemented. At the Poll, each voter shall be entitled to vote for candidates up to the number of vacancies on the community council.
3. Should the number of candidates elected, be below **HALF** of the total maximum permitted membership, as specified for the community council area, no community council will be established at that time. However, that does not preclude the local authority from issuing a second call for nominations for a community council area failing to meet the minimum membership requirement within 6 months of the closing date for the registration of the first call for nominations.

## Method of Election

Elections will be based on whole local authority areas or devolved administrative areas, as deemed appropriate. Ideally, elections will take place across whole local authority areas at one time. However, large local authorities may need to take an incremental approach to elections across their area, over a specified period of time or cycle. Community councils shall be elected on a simple majority basis.

## **Filling of casual places/vacancies between elections**

Casual vacancies on a community council may arise in the following circumstances:

- When an elected community council member submits her/his resignation;
- When an elected community council member ceases to be resident within that community council area;
- When an elected community council member has her/his membership disqualified (Clause 9).

Should a vacancy or vacancies arise on a community council between elections, it shall be a requirement that the community council undertake appropriate election arrangements, in consultation with the local authority. Filling a vacancy can be undertaken either through the process of an interim election or by co-option. However, should circumstances arise that lead to the number of elected community councillors falling below **HALF** of the maximum permitted membership, the local authority shall be informed and shall undertake arrangements for an interim election to be held, as described within the Guidance Notes.

## **Co-option to Community Councils**

Co-opted members must be eligible for membership of the community council as detailed in Section 5 of the Community Council Scheme. They must be elected onto the community council by a two-thirds majority of the elected (general and interim) community councillors present and voting. Such co-opted members shall have full voting rights, with the exception of voting on co-option of members, and will serve until the next round of elections (general and interim). Notice of any proposed co-option procedure is required to be intimated to all of that community council's members at least 14 days prior to the meeting when the matter will be decided.

The number of co-opted members may not exceed a **THIRD** of the current elected (general and interim) community council membership. Should the ratio of co-opted to elected community councillors become greater than one third, due to any circumstances, an interim election process shall be triggered.

## **Additional Membership**

### *Associate Members*

Associate members may be appointed by a community council where there may be a need for individuals with particular skills or knowledge. These individuals do not have voting rights. Associate members may serve for a fixed period as determined by the community council or for the term of office of the community council that has appointed them. Associate members may also include representation from other constituted local voluntary organisations.

### *Ex-Officio Members*

Local Authority Councillors, MPs, MSPs and MEPs whose wards or constituencies fall wholly or partly within the geographical area of the community council area shall be deemed ex-officio members of the community council. Ex-officio members shall have no voting rights on the community council.

## **8. Equalities**

Recognition should be given to the contribution of everyone participating in the work of the community council. Community councils must comply with Equal Opportunities legislation and ensure that equality of opportunity be given to every participant to have their knowledge, opinion, skill and experience taken into account.

## **9. Disqualification of Membership**

Membership of a community council is invalidated should a community councillor's residency qualification within that community council area cease to exist. If any member of a community council fails to attend any community council meeting, with or without submitting apologies, throughout a period of 6 months, the community council may terminate their membership. At the discretion of individual community councils, a period of leave of absence for community council members may be granted at any meeting of the community council.

## **10. Meetings**

The first meeting of a community council following a community council election, will be called by an independent Returning Officer approved by the local authority and will take place within 21 days of the date of the election, or as soon as practicable thereafter. The business of that meeting will include adoption of a Constitution and Standing Orders, appointment of office bearers and any outstanding business matters from the outgoing community council.

The frequency of meetings will be determined by each community council, subject to a minimum of one annual general meeting and 6 ordinary meetings being held each year. The annual general meeting shall be held in a month of each year to be determined by the local authority.

The quorum for community council meetings shall be one third of the current voting membership of a community council, or 3 voting members, whichever is the greater.

An outline for the content of business that community councils should adhere to when holding ordinary, special and annual general meetings is contained within the Model Standing Orders.

## **11. Liaison with the Local Authority**

In order to facilitate the effective functioning of community councils, the local authority has identified an official to act as a Liaison Officer with community councils. Unless there is a specific agreement or an issue is a specific departmental issue, all correspondence between the local authority and the community councils should, in the first instance, be directed through that official.

Community councils may make representations to the local authority and other public and private agencies, on matters for which it is responsible and which it considers to be of local interest. Representations should be made, in the case of statutory objections, such as planning or licensing matters, to the appropriate local authority official. On issues where a local authority department is consulting with community councils, representations should be made to the appropriate departmental officer.

Community councils shall provide copies of their agendas and minutes within prescribed timescales to the Council via the local authority's named official.

## **12. Resourcing a Community Council**

The financial year of each community council shall be provided for in the constitution of each community council and shall be from **(to be determined by the local authority)** to **(to be determined by the local authority)** in each succeeding year to allow for the proper submission of audited statement of accounts to the community council's annual general meeting on a specified date.

The Annual Accounts of each community council shall be independently examined by at least two examiners appointed by the community council, who are not members of that community council. A copy of the independently examined statement of accounts/balance sheet shall be forwarded immediately thereafter the statement is approved at the community council's annual general meeting, to a named official of the local authority.

The named official may, at their discretion and in consultation with the Council's Chief Financial Officer, require the community council to produce such records, vouchers and account books, as may be required.

Each community council shall have the power to secure resources for schemes, projects and all other purposes consistent with its functions.

Each community council shall be eligible to apply for grants for suitable projects through the local authority's grant system.

The local authority may provide an initial administrative grant to community councils to assist with the operating costs of the community council. The grant shall be fixed at a minimum flat rate of £ **(to be determined by the local authority)** with an additional minimal -p. **(to be determined by the local authority)** per head of population.

The local authority shall determine any additional support services/resourcing, such as: photocopying and distribution of community council minutes, agendas and free lets of halls for community council meetings, to suit local requirements. The local authority will review the level of annual administrative grant and other support to community councils following each local government electoral cycle.

The local authority's Liaison Officer shall facilitate advice and assistance to community councils and arrange for the establishment of a training programme for community councils on the duties and responsibilities of community council office bearers, the role of community councils, the functions of the local authority and other relevant topics.

### **13. Liability of Community Council Members**

A national scheme of insurance liability cover has been arranged. The insurance liability cover becomes effective upon the local authority advising the insurance underwriter of the establishment of a community council.

### **14. Dissolution of a Community Council**

The terms for dissolution of a community council are contained within the Model Constitution.

Notwithstanding these terms, should a community council fail to hold a meeting for a period of 3 consecutive prescribed meeting dates, or its membership falls below the prescribed minimum for a period of 3 consecutive prescribed meeting dates (during which time the community council and the local authority have taken action to address the situation), the local authority shall take action to dissolve that community council.

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