

DUNDEE CITY COUNCIL

REPORT TO: Leisure, Arts and Communities Committee - 23 June 2008

REPORT ON: Scottish Government Consultation on Model Scheme for the Establishment of Community Councils and Code of Conduct for Community Councillors

REPORT BY: Director of Leisure and Communities

REPORT NO: 344-2008

1.0 PURPOSE OF REPORT

1.1 To advise Committee of the Scottish Government consultation on a National Model Scheme for the Establishment of Community Councils and Code of Conduct for Community Councillors, and to recommend a response.

2.0 RECOMMENDATIONS

It is recommended that Committee

2.1 Welcome the Scottish Government consultation on the development of a National Model Scheme for the Establishment of Community Councils and the Code of Conduct for Community Councillors and the opportunities this will bring for the democratic renewal of Dundee's Community Councils.

2.2 Agree the response to the consultation as detailed in Appendix 1 of the report.

2.3 Agree to review Dundee City Council's Scheme for The Operation of Community Councils in the light of national development during the period 2008-2009.

3.0 FINANCIAL IMPLICATIONS

3.1 The report itself has no direct financial implications for the Council. However, the possible introduction of national formula for the levels at which Community Council grants are set may have an impact, if Local Authorities are bound by this.

3.2 Any additional costs created by the establishment of new Community Councils following the Scottish Government consultation would be contained within existing revenue budgets.

4.0 BACKGROUND

4.1 Community Councils form the most local tier of statutory representation in Scotland. They were originally created by the Local Government (Scotland) Act 1973 and were intended to bridge the gap between local authorities and local communities and to help make local authorities and other public bodies aware of the opinions, needs and preferences of the communities that they represent. The 1973 Act required local authorities to introduce community councils schemes for their area and gave them a large degree of freedom to tailor their scheme to the particular circumstances of their area. There are currently around 1160 active community councils in Scotland and these only exist where volunteers are prepared to represent their community in this way. Some areas in Scotland are not currently covered by a community council. The primary purpose of community councils is to ascertain and express the views of the community they represent and take appropriate action.

- 4.2 In November 2005 the Scottish Executive issued a discussion paper entitled "What can we do to help Community Councils Fulfil their Role?". The Paper was part of a wider information gathering exercise and played a key role in identifying specific obstacles faced by Community Councils, as well as examples of good practice.
- 4.3 The focus of the review was to look at what steps could be taken to support community councils in their role as representative bodies for their community area, and what could be done to improve their operational effectiveness. This included looking at the effectiveness of the legislation which provides for the establishment of community council schemes; the content and detail of current community council schemes; the rules governing community council elections; ensuring the community councils are genuinely representative of the communities that they represent; their interface with the local authority decision making process; funding and support including the provision of training; whether there is a need for a code of conduct for community councillors ; and the process for engaging in national issues.
- 4.4 Details of this review including the full analysis of the responses to the discussion paper along with the resultant recommendations can be found at: www.scotland.gov.uk/Topics/government/local-government/CommunityCouncils/CurrentReview
- 4.5 After careful consideration of the recommendations made to them as a result of the review, Scottish Ministers from the previous administration decided to form a short life Working Group to take this work forward. This resulted in the formation of the Community Council Working Group (CCWG) in May 2007. The Group is chaired by the Scottish Government and the membership consists of local authority and community council representation from 7 local authority areas (geographically and demographically spread over Scotland), plus representation from the Convention of Scottish Local Authorities (COSLA), the Association of Scottish Community Councils (ASCC) and the Society of Local Authority Lawyers and Administrators (SOLAR). Both Dundee City Council and the Dundee Civic Forum were represented on this group.
- 4.6 The agreed initial remit of the CCWG was to take forward the key recommendations arising from the 2005/06 review of community councils focusing on the following 3 outcomes:
- Produce a Model Community Council Scheme for Local Authorities;
 - Produce a Code of Conduct for Community Councillors; and
 - Produce Good Practice Guidance for both Community Councils and Local Authorities

Full details of the CCWG and the work undertaken by them can be found at: www.scotland.gov.uk/topics/Government/local-government/CommunityCouncils/ComCounWrkGrp

5.0 DUNDEE CONTEXT

- 5.1 The Scheme For The Operation Of Community Councils adopted by Dundee City Council in 1997 was revised in October 2002.

- 5.2 The Council's current Scheme For The Operation of Community Councils makes provision for the establishment of 19 Community Councils. Five Community Councils are currently active in Dundee.
- 5.3
- Three Neighbourhood Representative Structures have been recognised as having the same rights as Community Councils in Dundee. These groups have their own governance frameworks and therefore the proposed National Model Scheme of Establishment for Community Councils will not apply to them. However, there is an opportunity for further dialogue with these groups on the applicability of the National Code of Conduct and the Good Practice Guidance provided by the Community Council Working Group.
- 5.4 Committee approval has already been granted to delay Dundee's Community Council elections that were due to take place in October 2007, until such time as Dundee's Scheme For the Operation of Community Councils can be reviewed in the light of national developments.

6.0 DUNDEE CITY COUNCIL'S RESPONSE TO SCOTTISH GOVERNMENT CONSULTATION

- 6.1 The City of Dundee was represented on the Scottish Government's Community Councils Working Group by the Leisure and Communities Department's Community Regeneration Manager and the Chair of the Dundee Civic Forum. Having had an input to the development of the Model Scheme of Establishment of Community Councils and the Code of Conduct for Community Councillors, these documents should present no major issues for Dundee City Council.
- 6.2 The Scottish Government has asked key questions and invited comments on the above-named documents. These questions are set out in Appendix 1 to this report, along with the suggested response from the Council shown in bold type.
- 6.3 A focus group meeting was held with representatives from Dundee's Community Councils on the Community Council Consultation. There was a high degree of consensus between the views of community council representatives and the Dundee City Council response. Where different, community councillors views have been recorded in Appendix 1.

7.0 POLICY IMPLICATIONS

- 7.1 This report has been screened for any policy implications in respect of Sustainability, Strategic Environmental Assessment, Anti-Poverty, Equality Impact Assessment and Risk Management.

There are no major issues.

8.0 CONSULTATION

- 8.1 Community Councillors from four of Dundee's five community councils were consulted in the preparation of this report.
- 8.2 The Chief Executive, Depute Chief Executive (Support Services), Depute Chief Executive (Finance), Assistant Chief Executive (Community Planning) and Head of Finance have been consulted on this report and are in agreement with its contents.

9.0 BACKGROUND PAPERS

The following background papers as defined by Section 50D of the Local Government (Scotland) Act 1973 were relied on to a material extent in preparing the above report.

- Model Community Council Scheme For Local Authorities.
- Code of Conduct For Community Councillors.

STEWART MURDOCH
DIRECTOR OF LEISURE AND COMMUNITIES
9 JUNE 2008

CONSULTATION ON DRAFT MODEL SCHEME OF ESTABLISHMENT OF COMMUNITY COUNCILS (INCORPORATING DRAFT CONSTITUTION AND DRAFT STANDING ORDERS); AND DRAFT CODE OF CONDUCT FOR COMMUNITY COUNCILLORS

DRAFT MODEL SCHEME/CONSTITUTION/STANDING ORDERS

CONSULTATION QUESTION NO: 1

To what extent do you agree or disagree that the framework for creating, supporting and regulating community councils across Scotland is in need of modernisation and change?

Response: Strongly Agree.

Comment: There are currently approximately 38 Schemes for the Establishment of community councils in operation across Scotland. Since the adoption of Schemes, from 1975 onwards, there has been no co-ordinated modernisation programme. Councils across Scotland have reviewed their Schemes "from time to time" under the parameters set out under the terms of the Local Government (Scotland) Act 1973.

A number of community council representatives doubted the need for modernisation and change on the basis of "if it is not broken, why fix it?"

CONSULTATION QUESTION NO: 2

To what extent do you agree or disagree that there is a need to establish a common framework for the creation and support of community councils across Scotland?

Response: Strongly Agree.

Comment: Each of these Schemes is inevitably unique to its local authority's area and thereby lacks consistency and a common framework to support and regulate community councils. It is recognised however, that local authorities and their communities represent a wide diversity of cultural and geographical differences. The "standard" Scheme for Scotland and its associated documentation of Constitution and standing orders should be viewed as a minimum universal standard, which does not preclude introducing local variations to enhance its efficacy for any particular local authority area.

CONSULTATION QUESTION NO: 3

To what extent are you satisfied or dissatisfied with the existing legislative description of the statutory purpose of community councils.

Response: Very Satisfied.

Comment: The current legislative description under the terms of the Local Government (Scotland) Act 1973 supports the extensive range of activities undertaken by Community Councils on behalf of their local communities.

CONSULTATION QUESTION NO: 4

In your opinion, what level of difficulty or ease is associated with the requirement for community councils to be "accurately representative of the community"?

Response: Difficult.

Comment: In most cases community councils are dominated by older white people and find it difficult to secure representation from all sections of the community they seek to represent. Although there are some good examples of community councils having strategies in place to consult and involve others, in general terms, community councillors lack the capacity to ascertain the view of the wider community.

Some community council representatives considered the use of public meetings, websites, community notice boards, surveys, leaflets, posters and consultation events, as appropriate ways of helping them to accurately ascertain and represent the views of local communities. However, community councillors complained of being over-stretched and cited lack of local authority development support as an issue.

CONSULTATION QUESTION NO: 5

To what extent are you satisfied or dissatisfied with the model constitution?

Response: Very Satisfied.

Comment: The production of a Model Constitution, together with Model Standing orders has been welcomed. It should encourage and maintain consistency and underpin the principle that community councils' proceedings should be properly structured and regulated to ensure that its business is relevant to the community, properly debated and that decisions are reached in a democratic manner.

Community council representatives agreed with the principle of having a Model Constitution but were concerned about the fact that it is not always possible to have minutes prepared and circulated within seven days and therefore the wording should read "minutes should be produced with seven days". There were also concerns about 16-17 year olds ability to be placed on the electoral register and the fact that foreign nationals from certain countries without British citizenship are not allowed onto the electoral register despite having residency in the country for many years.

CONSULTATION QUESTION NO: 6

Co-opting individuals onto the community council is cited as a means of broadening both representation and expertise.

Response: Strongly Agree.

Comment: There has not been a contested community council election in Dundee for more than 20 years and community councils have used the power to co-opt effectively to maintain membership levels and sustain community council operations. Whilst accepting the value of interim elections in terms of democratic process, placing this burden on all community councils would limit their ability to broaden both representation and expertise. Limiting the number of places available by co-option to 50% should address any concerns about democratic deficit.

CONSULTATION QUESTION NO: 7

In your opinion, how appropriate or inappropriate are the current boundaries for your local community council?

Response: Inappropriate.

Comment: Current community council boundaries do not represent more commonly accepted community areas or fit neatly into the new multi-member wards.

CONSULTATION QUESTION NO: 8

Do the community council areas fit with your understanding of the boundaries of your community?

Response: No.

Comment: Dundee City Council's Scheme For The Operation Of Community Councils makes provision for 19 community councils, compared to 35 more commonly accepted community areas. DCC does not have the capacity to support the operation of 35 community councils and therefore community areas are grouped together as the basis for the formation of community council boundaries. The Council's position is that subject to consultation, any reconfiguration of community council boundaries should be contained within multi-member wards.

CONSULTATION QUESTION NO: 9

To what extent do you agree or disagree that community council boundaries should nest within existing ward boundaries?

Response: Strongly Agree.

Comment: In Dundee, the new multi-member wards also represent the Dundee Partnerships' local community planning areas. If community council boundaries straddle more than one multi-member ward, this would not only make elected member engagement more difficult, it would also mean that community councils would have to deal with more than one set of local community planning partnerships, local strategies and plans.

Community council representatives were in unanimous agreement with the above mentioned position, but the West End Community Council representatives made it clear that they would not want to see their community council cover the entire West End multi-member ward area.

CONSULTATION QUESTION NO: 10

In your opinion what should be the minimum number of elected community councillors in a community council?

Response: A minimum number of 10 elected community councillors would make the minimum quorum for community council meetings. Any less than this number would make it difficult to justify the quorum at meetings as being representative of the local community.

CONSULTATION QUESTION NO: 11

In your opinion, should local authorities continue to define a maximum and minimum number of community council members, or should agreed National guidance be provided for this?

Response: There should be national guidance for the maximum and minimum numbers of community councillors set against different populations for urban and rural communities, but local authorities should be able to make the final decision on this, to enable them to take into account local circumstances.

CONSULTATION QUESTION NO: 12

Do you agree or disagree with the age of 16 years being established as the minimum age to stand for election as a community councillor?

Response: Agree.

Comment: Dundee City Council's community councils' current electoral age is 16 years. It should be noted however, that an alternative form of identification/residency qualification would be required as not all 16 year olds' names would be on the electoral register.

CONSULTATION QUESTION NO: 13

Nominations and Elections - the first elections to be held under the new Scheme shall be held on a date to be agreed between local authorities, in consultation with the Scottish Government.

Option 1 - Subsequent elections will always be held in the year following Local Government elections, during a national date-range to be agreed between local authorities, in consultation with the Scottish Government.

Option 2 - Subsequent elections will always be held in the year following Local Government elections in the months of September and October, on dates to be set by the local authority.

Option 3 - Subsequent elections will be held on a four-yearly-cycle, outwith Local Government election year, on dates to be determined by the local authority.

All elections will be administered by the local authority.

Given the choice, which of the above 3 options would be your preference for election frequency.

Response: Option 3.

Comment: It would be useful if the Scottish Government and local authorities could agree a framework and timetable for the review and revisal of existing community council schemes, bearing in mind that all local authorities will have different resource capabilities to undertake this task. For this reason the first elections under any new schemes would have to be agreed over an agreed time period rather than a fixed date. It would be useful to have subsequent elections following Local Government elections to raise the national profile of community council elections but this would not be practically possible for all local authorities given the large number of community councils operating under some local authority schemes and the aforementioned resource limitations.

CONSULTATION QUESTION NO: 14

Option 1 - Community councils should be elected on a simple majority basis.

Or

Option 2 - Where the electorate of a community council area is greater than X, the Single Transferable Vote system will be utilised to elect community council members. Where the electorate of a community council area is less than X, election will be by simple majority. Where there are sub-divisions of electoral areas within a community council area, the method of election will be determined by the local authority.

In your opinion which of the above 2 options do you think is the most appropriate method of election for community councils in Scotland?

Response: Option 1.

Comment: The complexities of calculations and the resources and cost involved in using the STV system would make this method impractical for some local authorities.

Community council representatives were of the view that the use of STV system for last year's local government elections caused a lot of confusion resulting in spoilt papers which they would not want to see repeated in community council elections.

CONSULTATION QUESTION NO: 15

To what extent do you support or oppose the use of STV for community council elections?

Response: Strongly Oppose.

Comment: See above response to Question 14.

CONSULTATION QUESTION NO: 16

To what extent do you support or oppose the suggestions for elections described as follows:

(i) Secret Postal Ballot

Response: Strongly Oppose.

Comment: To fully utilise the absent voting processes in place of other types of election in Scotland, we would need to collect personal identifiers ie sample signature and Date of Birth for all potential electors. Currently these are only collected from those electors that have chosen to use a Postal Vote.

Common Election Day/Period - see responses to Consultation Question 13.

CONSULTATION QUESTION NO: 17

What in your opinion, should be the maximum level of co-opted members within a community council?

Response: 50%.

Comment: This is to ensure that at least half of the community council members are democratically elected. If community councils were not able to fill vacancies by co-option, interim elections would be required, creating capacity issues for community councils and resource difficulties for LA's. In Dundee, it is difficult enough to sustain community councils as it is without the burden of having to facilitate interim elections, the resources for which some local authorities can ill afford.

CONSULTATION QUESTION NO: 18

To what extent do you agree or disagree that Local Authorities should be able to prescribe the extent to which co-option is permissible?

Response: Strongly agree.

CONSULTATION QUESTION NO: 19

Please provide any specific examples of successful efforts to involve young people/under-represented groups in community council business. It would be helpful if you could provide us with the name of the community council and the local authority area, where appropriate.

Response: Members of Dundee Youth Voice, which is currently the representative group for all young people in Dundee, have been elected on to the Dundee Civic Forum which is the umbrella organisation for community councils in Dundee.

CONSULTATION QUESTION NO: 20

It is proposed that community councils may terminate membership for non-attendance of community council meetings in a 6-month period, with or without apologies. Do you agree or disagree that the proposed period of time for possible termination of membership is appropriate?

Response: Community councils should write to any member failing to attend over a three month period without submitting apologies, to ascertain the reasons for non-attendance and determine the individual's intentions re continued membership/attendance. Failure to attend or respond within the next 3 month period should result in termination of membership. Community councils should have some flexibility to deal with non-attendance at meetings when apologies have been submitted, to enable extenuating circumstances to be taken into account.

CONSULTATION QUESTION NO: 21

Do you have any comment on the proposed quorum for meetings of community councils, or when the annual meetings should be held?

Response: The quorum for community council meetings should be at least a third of the council voting membership of a community council, or three voting members whichever is the greater.

The first annual general meeting should be held within 28 days of the community council elections. Future AGM's should be held during that calendar month (usually October) in subsequent years except in special circumstances.

CONSULTATION QUESTION NO: 22

It is proposed that the local authority may take action to dissolve a community council, should it fail to hold a meeting for a period of three consecutive prescribed meeting dates; or its membership falls below the prescribed minimum for a period of three consecutive prescribed meeting dates.

To what extent do you agree or disagree with this provision to dissolve a community council?

Response: Strongly Agree.

Comment: Should such circumstances become apparent, local authorities should ensure appropriate remedial action be undertaken to address any prevailing conditions adversely affecting the community council.

Community council representatives were of the view that dissolution should be the last option and the local authority should support community councils to take any remedial action required to prevent this happening.

CONSULTATION QUESTION NO: 23

Please use the space below for any other comments you may have about the Model Scheme for Community Councils.

Response: Local Authorities should be allowed to determine the fixed flat rate and the amount of money per head of population for Community Council grants. The fixed flat rate for community councils in Dundee is £330 with an extra 1.2p per head of population. Setting minimum rates above this level could have considerable resource implications for some Local Authorities.

To qualify for their administration grants, community councils in Dundee, must have less than twice the amount of their annual grant award in their administration account at the end of the financial year.

Dundee City Council also makes provision for Community Council Special Project Grants Fund to which Community Councils can apply for grants of up to £500.

Local authorities should be able to decide with Community Councils if these wish to extend the membership of Community Council Forums to other groups fulfilling similar functions. The Dundee Civic Forum presents networking opportunities for Community Councils and recognised Neighbourhood Representative Structures and enables them to work together to address issues of common concern.

Community council representatives were of the view that a system should be established to enable them to appeal Dundee City Council decisions.

CONSULTATION QUESTION NO: 24

To what extent do you support or oppose proposals that there should be a standard National Code of Conduct for Community Councillors?

Response: Strongly Support.

Comment: Dundee City Council is committed to the promotion of high ethical standards in public life. Community councils are voluntary bodies within a statutory framework that comment extensively on behalf of their communities on issues of local relevance and concern; and proclaim to represent a commonly held view. Within that context, appropriate common standards of behaviour should be promoted, demonstrated and ultimately enforced.

CONSULTATION QUESTION NO: 25

In your opinion, should there be a standard national process for adjudicating on issues relating to a National Code of Conduct?

Response: Yes.

Comment: A standard national adjudicating process is essential to demonstrate consistency of approach relative to any potential breaches of a National Code of Conduct for Community Councillors.

CONSULTATION QUESTION NO: 26

In your opinion, should individual community councils be able to attach additional sanctions, if they wish to do so?

Response: No.

Comment: Any such approach would undermine the rationale for supporting a standard national process for adjudicating on issues relating to a National Code of Conduct. The introduction of additional sanctions could lead a wide range of different interpretations and possible abuse.

CONSULTATION QUESTION NO: 27

In your opinion should individual local authorities be able to attach sanctions, if they wish to do so?

Response: No.

Comment: See response to Consultation Question 26.

CONSULTATION QUESTION NO: 28

Who, in your opinion, should make the decision on whether a breach of a National Code of Conduct has occurred?

Response: Other.

Comment: Community Councils and local authorities should not be given the responsibility to make decisions on whether a breach of the National Code of Conduct has occurred to avoid any possible conflict of interest. An independent body should be given this responsibility. It has been suggested by some other local authorities that the National Standards Commission should be given this responsibility. This area will need further investigation and would require a change in the law

Community council representatives agreed that local authorities and community councils should not be given the responsibility for making decision on breaches of the National Code of Conduct.

CONSULTATION QUESTION NO: 29

Who, in your opinion, should enforce sanctions, resultant from any decisions that a breach of a National Code of Conduct has occurred?

Response: Community Council.

Comment: It is suggested that this matter be considered in tandem with the role of any proposed independent body identified under Question No 30. There may be merit in having synergy of approach with the discharge of sanctions in relation to Local Authority Councillors.

CONSULTATION QUESTION NO: 30

Who, in your opinion, is best placed to deal with appeals on sanctions resulting from the application of a National Code of Conduct?

Response: Again an independent body needs to be identified to deal with appeals on sanctions resulting from the application of a National Code of Conduct. Possible options include the direction of appeals towards the Scottish Courts or the establishment of a new appeals body under the auspices of the Scottish Government.

CONSULTATION QUESTION NO: 31

Please use the following space for any other comments you would like to make regarding the proposed National Code of Conduct for Community Councillors.

Response: Community councillors should be required to complete a Declaration of Interest Form to support the implementation of the National Code of Conduct, and to allow conflict of interests to be dealt with in an open and transparent way.

Scottish Government's Working Group on Community Councils

Consultation Questionnaire on Model Scheme of Establishment of Community Councils

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, also 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 and to provide a common framework governing their creation and operation.

2. Statutory Purposes

The statutory purposes of the community councils established under this 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 are demonstrated to be accurately representative of the community and, accordingly, the community

council will have in place 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, local authorities 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 objectives of their constitution.

Overall, community councils should engage with and establish positive working relationships with their local authority and other agencies. In carrying out their activities community councils must at all times adhere to the law; 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 standing orders (Appendix II), to encourage and maintain consistency for all community councils; and to underpin that their proceedings are properly structured and regulated to ensure that items of business are relevant to the community, properly debated and decisions are reached in a democratic manner.

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 produced within 7 days from the date of that meeting, to enable their circulation to the local authority, and relevant elected members, council staff and other parties.
- Seek to broaden both representation and expertise by co-opting individuals onto the community council; and promote the co-option of associate membership 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.

- Liaise closely with their local authority on any change in membership (resignations, co-option, etc.) and circumstances.

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.

5. Membership of Community Councils

There shall be a minimum of [x] elected community council members 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 and areas of low population, each local authority may set its own formula for the definition of a maximum number of community council members in a 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.

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.

6. Establishment of Community Councils under the Model Scheme

Upon the local authority's revocation of its existing Community Council Scheme; 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.

16 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

Any community council member who no longer resides within the community council area will have their membership terminated from that community council from the date their residency ceases.

Any individual who is elected to serve on a local authority, or the Scottish, UK or European parliament shall be ineligible to stand for election to a community council.

Nominations and Elections

The first elections to be held under the new Scheme shall be held on a date to be agreed between local authorities, in consultation with the Scottish Government.

Option 1 - Subsequent elections will always be held in the year following Local Government elections, during a national date-range to be agreed between local authorities, in consultation with the Scottish Government.

Option 2 - Subsequent elections will always be held in the year following Local Government elections in the months of September and October, on dates to be set by the local authority.

Option 3 – Subsequent elections will be held on a four-yearly-cycle, outwith Local Government election year, on dates to be determined by the local authority.

All elections will be administered by the local authority.

Returning Officer

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

Nominations

Individuals seeking election to a community council should be nominated by a proposer and seconder, both of whom must be resident within the community council area. Each elector may propose one nominee and second one nominee. 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 determined by the local authority. Nomination forms require to be submitted on the date set down in the Election timetable. No 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 is less than or equal to the total maximum permitted membership as specified for the community council area in Appendix X of this 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, but cast no more than one vote for each candidate.
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, this does not prevent a request from 20 electors to the local authority to make arrangements for the establishment of a community council under the terms of Section 52 (7) of the Local Government (Scotland) Act 1973.

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 time period. All community council elections will be held by secret postal ballot.

Option 1:

Community councils should be elected on a simple majority basis.

OR

Option 2:

Where the electorate of a community council area is greater than X, the Single Transferable Vote system will be utilised to elect community council members. Where the electorate of a community council area is less than X, election will be by simple majority. Where there are sub-divisions of electoral areas within a community council area, the method of election will be determined by the local authority.

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 the community council area;
- When an elected community council member has her/his membership disqualified.

Should vacancies arise on a community council between elections, it shall be at the discretion of the community council whether to fill the vacancy. Filling a vacancy can be undertaken either through the process of co-option or by an interim election, should the circumstances deem it appropriate. However, should circumstances arise that leads to the number of elected community council members to fall below **HALF** of the maximum permitted membership, the local authority shall be informed and shall make arrangements for an interim election to be held.

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 council members present. Such co-opted members shall have full voting rights, with the exception of voting on co-option of new members, and will serve until the next round of elections (general and interim).

The number of co-opted members may not exceed a **QUARTER** of the elected (general and interim) community council membership.

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 which has appointed them. Associate members may include officials from the local authority to advise on issues of e.g. planning, or youth members from the community

Ex-Officio Members

Local Authority Councillors, MPs, MSPs and MEPs whose wards 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 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. You 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

Disqualification of membership is automatic, should a community council member relocate and render invalid their residency qualification for membership. 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, an approved leave of absence for community council members may be approved at any meeting of the community council.

Disqualification may also occur where a community council member is found to be in breach of the National Code of Conduct for Community Councillors.

10. Meetings

The first meeting of a community council following the election; and upon establishment of a community council, will be called by a Deputy Returning Officer approved by the local authority and will take place within 21 days of that date, or as soon as practicable thereafter. 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 meeting shall be held in the month of (to be determined) of each year.

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

An outline of the conduct 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 help 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 this route.

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 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 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 an audited statement of accounts to the annual general meeting on a specified date.

The Model Standard Cashbook/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 the community council. A copy of the independently examined statement of accounts/balance sheet shall be forwarded as soon as the statement is prepared, to a named official of the local authority who may, at their discretion and in consultation with the Council's Chief Financial Officer, request the community council to produce such records, vouchers and account books as may be required.

Each community council shall have the power to raise its own financial 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 shall provide an 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)** per community council with an additional minimal -p. **(to be determined)** per head of population.

The local authority shall determine any additional support services/resourcing, such as: photocopying and distribution of community council minutes and agendas; and free lets of halls for community council meetings, to suit local requirements.

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

In order to protect the individual and several liability of community council members, a national scheme of insurance liability cover has been established. 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, despite during which time the community council takes action to address the situation, the local authority may take action to dissolve that community council.

Scottish Government's Working Group on Community Councils

Code of Conduct for Community Councillors

The Code of Conduct for Community Councillors is based largely on the Code of Conduct for local authority councillors and relevant public bodies as provided for in The Ethical Standards in Public Life etc (Scotland) Act 2000.

Community Councillors, as elected representatives of their communities, have a responsibility to make sure that they are familiar with, and that their actions comply with, the principles set out in this Code of Conduct. The Code of Conduct and its principles, shall apply to all Community Councillors and those representing the Community Council. These principles are as follows:

- Service to the Community (Public Service)
- Selflessness
- Integrity
- Objectivity
- Accountability and Stewardship
- Openness
- Honesty
- Leadership
- Respect

Failure to comply with this code may result in you being suspended or banned from serving as a Community Councillor. [The mechanisms for adjudicating on and applying sanctions will be set out in your local authority Scheme for Community Councils.] –

Service to the Community

As a Community Councillor you have a duty to act in the interests of the local community, which you have been elected or nominated to represent. You also have a duty to act in accordance with the remit of the Community Council Scheme as set out by your local authority under the terms of the Local Government (Scotland) Act 1973.

You have a duty to establish and reflect, through the Community Council, the views of the community as a whole, on any issue, irrespective of personal opinion.

You should ensure that you are, within reason, accessible to your local community and local residents. Various mechanisms to allow the general community to express their views, i.e. suggestion boxes, community surveys, opinion polls should, where possible, be made available.

Selflessness

You have a duty to take decisions solely in terms of the interest of the community that you represent. You must not use your position as a Community Councillor to gain financial, material, political or other personal benefit for yourself, family or friends.

Integrity

You must not place yourself under any financial or other obligation to any individual or organisation that might reasonably be thought to influence you in your representation of your community. If you have any private and/or personal interest in a matter for the Community Council, you have a duty to declare this and if deemed necessary by other members, withdraw from discussions and the decision making process with regard to that matter.

You should not accept gifts or hospitality that may be seen to influence or be intended to influence your opinion or judgement. The offer and/or receipt of any gifts, regardless of form, should always be reported to and noted by the Secretary of the Community Council.

Objectivity

In all your decisions and opinions as a Community Councillor, you must endeavour to represent the overall views of your community, taking account of information which is provided to you or is publicly available, assessing its merit and gathering information as appropriate, whilst laying aside personal opinions or preferences.

You may be appointed or nominated by your Community Council to serve as a member of another representative body. You should ensure that this Code of Conduct is observed when carrying out the duties of the other body.

You are free to have political and/or religious affiliations; however you must ensure that you represent the interests of your community and Community Council and not the interests of a particular political party or other group.

Accountability and Stewardship

You are accountable for the decisions and actions that you take on behalf of your community through the Community Council. You must ensure that the Community Council uses its resources prudently and in accordance with the law.

Community Councillors will individually and collectively ensure that the business of the Community Council is conducted according to the relevant Scheme of Establishment of Community Councils and this Code of Conduct.

Community Councillors will individually and collectively ensure that annual accounts are produced showing the financial undertakings of the Community Council as set out in the local authority's Scheme for Community Councils. They must also ensure that all resources are used efficiently, effectively and fairly and are used strictly for the purposes of Community Council business and for no other purpose.

Minutes of Meetings recording all actions and decisions made should be produced and circulated to all members of the Community Council within 7 days of that meeting.

Any breach of the Community Council Scheme as set out by your local authority under the terms of the Local Government (Scotland) Act 1973 may be reported to your local authority to determine what action, if necessary, should be taken.

Openness

You have a duty to be open about your decisions, actions and representations, giving reasons for these where appropriate. You should be able to justify your decisions and be confident that you have not been unduly influenced by the views and/or opinions of others.

If you have dealings with the Media, members of the public, or others not directly involved in your Community Council, you should ensure that an explicit distinction is made between the expression of your personal views and opinions from any views or statement made about or on behalf of the Community Council.

Honesty

You have a duty to act honestly. You also have an obligation to work within the law at all times. You must declare any private interest relating to your Community Council duties and take steps to resolve any conflicts arising in a way that protects the interests of the community and Community Council.

Leadership

You have a duty to promote and support the principles of this Code of Conduct by leadership and example, to maintain and strengthen the community's trust and confidence in the integrity of the Community Council and its members in representing the views and needs of the local area. You must also promote social inclusion and challenge discrimination in any form.

You should act to assist the Community Council, as far as possible, in the interest of the whole community that it serves. Where particular interest groups' concerns are in conflict with those of other groups or other areas you should help to ensure that the Community Council is aware of them.

Respect

You must respect fellow members of your Community Council and those that you represent, treating them with courtesy, respect and in a non-discriminatory manner at all times. These principles should extend to any person, regardless of their position, you have dealings with in your capacity as a Community Councillor.

Recognition should be given to the contribution of everyone participating in the work of the Community Council. You 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.

You should ensure that confidential material, including details about individuals, is treated as such and that it is handled with dignity and discretion and is not used for personal, malicious or corrupt purposes.
