

EAST AYRSHIRE COUNCIL

SPECIAL COUNCIL – 4 NOVEMBER 2010

EAST AYRSHIRE COUNCIL COMMUNITY COUNCIL SCHEME

OUTCOME OF FIRST PERIOD OF FORMAL PUBLIC CONSULTATION ON THE REVIEW OF THE SCHEME

Report by the Executive Director of Finance and Corporate Support

1. PURPOSE OF REPORT

- 1.1** To advise of the outcome of the first period of formal public consultation on the review of the East Ayrshire Council Community Council Scheme, and to present, for consideration, proposed amendments to the Scheme and issues for further consultation identified as a result of the consultation exercise and operational experience.

2. BACKGROUND

- 2.1** Local Authorities are responsible for setting up Community Council Schemes which provide the framework for establishing Community Councils within each Local Authority area.
- 2.2** The report to Special Council, at its meeting held on 24 June 2010, explained that the Scottish Executive had concluded a review of Community Council's in 2009 with the production of model: Scheme of Establishment of Community Council's; Constitution; Standing Orders; and Code of Conduct for Community Councils. These documents were jointly endorsed by the Scottish Government, COSLA and the Association of Community Councils. Thereafter all Scottish Councils have been encouraged to adopt these models. The report also explained the various stages of the review.
- 2.3** On 24 June 2010, Special Council therefore agreed to review the existing Scheme for the Establishment of Community Councils and authorised officers to undertake the review in consultation with Community Councils, Local Members and the public and undertake the necessary statutory public notification procedures.

3. FIRST PERIOD OF PUBLIC CONSULTATION

- 3.1** The first consultation period commenced on 6 August 2010 and ended on 1 October 2010.
- 3.2** Information packs were issued to all Elected Members, and each Community Council and were made available at various Local Offices, other Council venues and on the Council's website. Public notices were placed in local newspapers giving details of the public consultation exercise. A random

sample of approximately 275 individuals from the Residents Panel were also contacted to seek their views.

3.3 In order to provide additional support to Community Council in responding to the consultation exercise, Officers met with all operational Community Councils (28 in total) with a view to:-

- explaining the background to the review;
- the various stages of the review process and its purpose;
- identifying the types of issues which could be raised as part of the review;
- encouraging Community Council's to consider any relevant issues which they might wish to raise as part of the review process;
- outline proposals to develop a publicity campaign to raise the profile of Community Councils and to encourage participation therein; and
- discuss other support needs and opportunities for capacity building to support Community Councils.

4. SUBMISSIONS/COMMENTS RECEIVED DURING THE FIRST STAGE OF THE CONSULTATION

4.1 The National review has indicated that the Adoption of the Model Scheme and associated documents throughout Scotland will establish consistency of operational arrangements in Local Authority Schemes for Community Councils, while allowing local circumstances to be reflected. Adoption of the principles of the Code of Conduct for Community Councillors will facilitate the development of a culture of accountability for all parties, for the actions and decisions of individual Community Councillors and will encourage collective responsibility of Community Councils. This will assist Community Councils to further develop effective engagement in an open transparent and positive manner within their community alongside other community organisations, in line with the Scottish Government community empowerment agenda. The National review hopes that adoption of these documents will give every Community Council in Scotland the opportunity to build their capacity and to engage more effectively with both their Local Authority and the community that they represent.

4.2 During the meetings with Community Councils, Officers explained the background to the review and highlighted some key issues which the Community Council would perhaps wish to focus on.

4.3 17 Community Councils and 3 individuals submitted comments during the review. A full set of responses has been placed on the Members' Portal.

4.4 In terms of the responses received, the documents attached highlight comments received along with Officers comments and recommendations where appropriate. The four documents appended to this report cover:-

- (a) Appendix I - Draft Scheme.

Comments received on the Scheme have been in relation to supply of information to the Council by the Community Council; membership of the Community Council; election arrangements and meeting arrangements.

(b) Appendix II - Draft Constitution

Comments received have been in relation again to supply of information to the Council by the Community Councils and meeting arrangements and further, in respect of the holding of office by office bearers.

(c) Appendix III - Draft Standing Orders

Comments received on the Scheme were in relation to reconsideration of Community Council business and the process for changes to Community Councils Standing Orders.

(d) Appendix IV - Draft Code of Conduct

Only one comment was received on the Draft Code of Conduct in relation to the distinction of the role of a Community Council as opposed to an East Ayrshire Council Councillor.

4.5 In general terms, two Community Councils expressed support for the proposal as contained in the draft documents. One Community Council commented on the timescales for the 1st period of consultation which was during the Community Council summer recess and this will be taken on board by Officers for future consultations.

4.6 Two Community Councils expressed concern that the result of the review of the existing Scheme would centralise control and interfere with the operation of the Community Council. One Community Council in particular submitted various issues on a range of the proposals suggested and also questioned the necessity for a one size fits all approach.

4.7 The National Review is not intended to control or interfere with the operation of Community Councils. The whole ethos of the review is one to assist Community Councils to further develop a consistent effective engagement, operational and accountability framework.

5. OTHER SUPPORT MECHANISMS/PROMOTION OF COMMUNITY COUNCIL

5.1 As part of the consultation process, discussion also took place on a pilot project being promoted and funded by the Scottish Government, but to be undertaken in East Ayrshire, to promote Community Councils and generate interest amongst members of the public in becoming a Community Councillor and in turn, increase contested elections.

5.2 Further discussion also centred on capacity building initiatives which Community Councils would wish the Council to provide for them to build on their existing skills, knowledge and capacity to carry out both their duties as effective Community Councillors and as an effective Community Council.

5.3 Both the promotional initiative and capacity/support proposals will be developed in parallel to this review and will involve ongoing discussion and engagement with Community Councils.

6. LEGAL AUTHORITY

6.1 Section 53(3) of the Local Government (Scotland) Act 1973, as amended, provides the relevant authority for reviewing the Scheme for Community Councils.

7. FINANCIAL IMPLICATIONS

7.1 The cost of the review, promoting the role of Community Councils and providing opportunities for developing Community Council capacity, can all be met from the Department's resources, supplemented from grant funding from the Scottish Government.

8. POLICY IMPLICATIONS

8.1 Community Councils are key participants within the wider community empowerment agenda. Effective community engagement is the key to the community planning process within East Ayrshire. Supporting and developing the role of Community Councils within East Ayrshire and providing them with the opportunity to build their capacity and to engage more effectively with both East Ayrshire Council and the community they represent, will further strengthen the community planning process.

9. RECOMMENDATIONS

9.1 The Council is requested:-

- (i) to consider the documents and the recommendations therein, as shown attached to the report, namely (a) Appendix I - Draft Scheme; (b) Appendix II - Draft Constitution; (c) Appendix III - Draft Standing Orders; and (d) Appendix IV - Draft Code of Conduct; for the purposes of the second period of public consultation;
- (ii) to note that the next period of consultation will be for a period of 8 weeks from 12 November 2010 to 7 January 2011 and a report will be submitted to a Special Council Meeting thereafter on 10 February 2011;
- (iii) to remit to the Executive Director of Finance and Corporate Support to undertake the necessary statutory public notification of this decision in

terms of Section 53(3) of the Local Government (Scotland) Act 1973;
and

- (iv) to note that, ways to raise the profile of Community Councils and future support to Community Councils will be developed, in parallel to the ongoing review, taking into consideration those views already expressed and with further ongoing engagement with Community Councils as required.

Alex McPhee
Executive Director of Finance and Corporate Support

29 October 2010
JMcG/SW

LIST OF BACKGROUND PAPERS

1. East Ayrshire Council Scheme of Establishment of Community Councils,
2. Submissions by Community Councils/individuals.

Any person wishing to inspect the background papers relative to this report should contact Julie McGarry, Administration Manager on Tel: (01563) 576147. Any person wishing further information on this report should contact Bill Walkinshaw, Head of Democratic Services on Tel: (01563) 576135.

Implementation Officer: Bill Walkinshaw, Head of Democratic Services.

APPENDIX I

EAST AYRSHIRE COUNCIL

DRAFT SCHEME FOR COMMUNITY COUNCILS

FOR CONSULTATION PURPOSES

1. Introduction

- 1.1 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. This legislation provides the legal framework for community councils.
- 1.2 This scheme provides for the establishment of community councils across East Ayrshire and is based on the national model scheme endorsed by the Scottish Government, COSLA and the Association of Scottish Community Councils. The scheme reflects local circumstances and has been produced following consultation with all active community councils and all other interested parties.
- 1.3 To accompany this scheme, and support community councils, there will be provided:
- Community Councillors' Code of Conduct;
 - A Model Constitution;
 - Model Standing Orders; and
 - Guidance Notes.

These will be updated regularly as required.

2. Statutory Purposes

- 2.1 The statutory purposes of community councils established under this 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

- 3.1 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 East Ayrshire Council, other public sector bodies and private agencies on matters within their sphere of interest.
- 3.2 It is essential that these views be demonstrated to be accurately representative of the community. 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.

Consultation Response(s) in respect of Paragraph 3.2:

One Community Council has queried what is meant by “consultative mechanisms”? Another Community Council has requested that this paragraph be reworded to read “It is incumbent upon the Community Council to have in place recognised consultative mechanisms which will enable it to perform this function effectively”.

Officers’ Comment/Recommendation:

It is important that there is provision within the scheme for Community Councils to develop consultative mechanisms that are appropriate to local needs, which recognised the capacity of Community Councils to establish such mechanisms and reflect what Community Councils are able to achieve in this respect. It is not the intention for the scheme to be prescriptive in this regard.

Recommendation 1 - Recommend that the wording of Paragraph 3.2 be changed to read “Accordingly, the Community Council will have in place appropriate consultative mechanisms which will ensure that all sectors of their community can be informed, involved and represented”.

- 3.3 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.
- 3.4 Overall, community councils should engage with and establish positive working relationships with East Ayrshire Council 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**.

Consultation Response(s) in respect of Paragraph 3.4

One Community Council has suggested Paragraph 3.4 is vague and should be reworded to make it clear that Community Councils are free to criticise East Ayrshire Council where appropriate. Another Community Council has suggested that the word “positive” be substituted with the word “mutual”.

Officers’ Comment/Recommendation:

The intent of this paragraph is to emphasise the nature of the relationship which exists between a community council and other agencies including East Ayrshire Council. It is recognised that the role of the community council is such that, from time to time, community councils may feel it is necessary to be critical of the actions of the Local Authority. The scheme does not prevent this and the relationship with the community council and the Local Authority and other agencies should remain positive and constructive.

Recommendation 2 - No change.

- 3.5 Each community council is required to adopt a **Constitution, based upon the Model Constitution** which has been produced for national use, together with **Model Standing Orders**, 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 East Ayrshire Council.
- 3.6 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: -

Consultation Response(s) in respect of Paragraph 3.6:

Under this paragraph, comments have been received:-

- **stating it's not true to say "community councils have a duty under statute to represent views of their local community". It's to "ascertain, co-ordinate and express to the Local Authority for its area and to public authorities the views of the community which it represents". It's to find out what local opinion is and communicate its findings to the relevant authorities;**
- **querying what the role is of community councils. Consultation needs to be meaningful; be shown to be taken into account and contribute to community empowerment;**
- **stating that there needs to be recognition that community councillors are unpaid volunteers;**
- **stating that duties and obligation of community councils are heavily prescribed but not East Ayrshire Council obligations to community councils;**
- **stating that there needs to be recognition that community councils are not subordinate to East Ayrshire Council; and**
- **indicating that voicing local concern doesn't always result in a timeous response from East Ayrshire Council.**

Officers' Comment/Recommendation:

With regard to the duty of community councils, the statutory purpose of community councils is set out in Para 2.1 of the draft scheme.

With regard to the points made by consultees relating to community councils being volunteers, duties and obligations and community councils being subordinate, Paragraph 3.2 of the draft scheme sets out the particular responsibilities of community councils and is not intended to explain in detail the various working relationships and partnerships which can be developed between community councils, and East Ayrshire Council and other agencies. The independence of community councils is clearly acknowledged and recognised by East Ayrshire Council and this is reflected in the extent and nature of the support, financial and otherwise, which the Council provides to community councils.

With regard to the points made by consultees regarding consultation and representations made to East Ayrshire Council, the intent is to establish and recognise the principle role and responsibility of community councils. It is recognised that the future means and mechanisms for future consultations could be improved in terms of methods and timescales to assist community councils in effectively responding and participating in consultations, and it is considered that these aspects can be taken on board within Department's normal working/operational arrangements.

Recommendation 3 - No change.

- 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.

Consultation Response(s) in respect of Paragraph 3.6, 1st bullet point:

A community council has queried why personal details should be widely available and that some community council members would prefer their personal details not to be publicised.

Officers' Comment/Recommendation:

Contact details can contain as much or as little information as community councils feel comfortable with. Currently, community councils give only the home address of the Secretary and this approach has been agreed with community councils and recognises the terms of the Data Protection legislation. Any proposal to alter this arrangement in the future would be subject to further consultation with the community councils. Community Councils also have the option to list the Community Council Liaison Officer as a first point of contact.

Recommendation 4 - No change.

- Submit agendas and minutes of community councils' meetings to East Ayrshire Council's Administration Manager, Democratic Services within 14 days from the date of each meeting.

Consultation Response(s) in respect of Paragraph 3.6, 2nd bullet point:

A number of respondents have queried why agendas and minutes should be submitted within 14 days from the date of each meeting, as minutes are unadopted until formally adopted at the next community council meeting.

Officers' Comment/Recommendation:

Officers accept that the minutes would be unadopted at this stage.

Recommendation 5 - Change to read "minutes of community council meetings should be submitted to East Ayrshire Council's Administration Manager, Democratic Services, within 14 days of them being adopted by the community council. Agendas should be submitted at the same time as the minute of the meeting to which it relates".

- Agree in consultation with East Ayrshire Council, Head of Democratic Services or his representative, a distribution list and method for circulating agendas and minutes to community council members, ex-officio members and other interested parties, that complies with the community council's constitution and standing orders.

Consultation Response(s) in respect of Paragraph 3.6, 3rd bullet point:

A Community Council has suggested that a distribution list and method for circulating agendas and minutes should be a matter for the Community Council and not done in consultation with the Head of Democratic Services.

Officers' Comment/Recommendation:

This paragraph is merely to ensure that there is a consistent approach amongst community councils to the distribution of agendas and minutes. However, this can be done by the submission of the distribution list to the Head of Democratic Services, for information, and on the basis of this, the Head of Democratic Services could, where necessary, make suggestions to community councils as to appropriate changes.

Recommendation 6 - Amend paragraph to commence "Submit, to the Head of Democratic Services or his representative"

- 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.

Consultation Response(s) in respect of Paragraph 3.6, 5th bullet point:

One community council has indicated that meetings are publicised and it is unreasonable to expect volunteers to give up their time to try to drum up interest in the community council.

Officers' Comment/Recommendation:

It is not the intention to put a further burden on community councils but to ensure that underrepresented groups have the opportunity to participate in community councils. Community councils may require to promote their community council in different ways/venues etc to ensure inclusiveness.

Recommendation 7 - No change.

- Maintain proper financial records and present financial reports at community council meetings.
 - Inform East Ayrshire Council's Head of Democratic Services or his representative of any change in membership (resignations, Associate Membership, etc.) and circumstances, as soon as is practicable and record any such changes in membership within council minutes
- 3.7 The general purpose of a community council is to act as a voice for its local area and to that end a community council requires to reflect the broad spectrum of opinion and interests of all sections of its community and should not in any way be influenced by any particular political group or ideology.
- 4. The Role of the Community Councillor**
- 4.1 Community Councillors are required to represent the views of their local community. To do this community council members will have to ascertain the views of people in the community on particular topics. The views of the community may, from time to time, conflict with the personal views of individual community council members. When this situation arises a community council is required to ensure that the view of the community takes precedence over the personal views of individual members.
- 4.2 Community Councillors are also required to abide by the Code of Conduct for Community Councillors and adhere to the general principles contained in the Code.

5. Community Council Areas

- 5.1 East Ayrshire Council is divided up into 35 community council areas (possibly 36 subject to further consideration of a request that a separate community council be provided for within the scheme for Crossroads and surrounding area) and community councils may be established to serve and represent these areas as set out in the Annexation to the Scheme. The boundaries of the community council areas are detailed on maps which are available for inspection at Democratic Services, Council Headquarters, London Road, Kilmarnock, KA3 7BU, or on the council's website at www.east-ayrshire.gov.uk

Consultation Response(s) in respect of Paragraph 5.1:

Cumnock Landward Community Council have requested that the name of their Community Council be changed to "Netherthird & District Community Council".

Officers' Comment/Recommendation:

It is considered that the name proposed fairly reflects the area of this community council and that the proposal should be supported.

Recommendation 8 - Agree to change name of Cumnock Landward Community Council to Netherthird & District Community Council.

Expression of interest to create a new community council for Crossroads

An initial expression of interest has been received from residents of Crossroads to create a new community council for that area.

Further information has been sought from the originators of this request on the suggested boundaries for the proposed community council and electorate. Upon receipt of this information, consideration will need to be given to the implications for neighbouring community councils, i.e. Hurlford and Crookedholm, Galston and possibly Mauchline, and a process of consultation undertaken with these community councils and the residents concerned prior to an assessment being made of the viability and feasibility of the proposal. The outcome of this process will be taken on board as part of the currently ongoing review process and will feature within the relevant documentation provided to Members.

6. Membership of Community Councils

Elected and Co-opted Members

- 6.1 There shall be minimum and maximum membership numbers of elected community councillors in a community council. There shall be a minimum of 10 members to represent a population of up to 500 and 1 additional member per 500 of population.

Consultation Response(s) in respect of Paragraph 6.1:

Two responses have requested that the minimum of 10 members be reduced.

Officers' Comment/Recommendation:

The minimum threshold of 10 represents a basic level of membership which will, as far as possible, allow for an adequate representation to sustain the community council to function.

Recommendation 9 - No change.

- 6.2 The membership numbers of each Community Council, including the maximum number that may be co-opted during any yearly elected cycle period of a community council, are as detailed in Appendix 1 to this Scheme.
- 6.3 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. Some young people who are 16-17 years old may not appear on the electoral register so qualification can be confirmed by other means such as confirmation in writing from parent, guardian or school.

Consultation Response(s) in respect of Paragraph 6.3:

One community council referred to an unsuccessful initiative a few years ago to set up Junior Community Councils and that the outcome was that there were none formed in East Ayrshire.

Officers' Comment/Recommendation:

It is accepted that there have been difficulties in the past with attracting young people to participate/join community councils and it is hoped that by lowering the age to become a community councillor this might assist. Further, New Cumnock Community Council have established a junior section which is working very well.

Recommendation 10 - No change.

Ex Officio Members

- 6.4 East Ayrshire Councillors, MPs, MSPs and MEPs, whose wards or constituencies fall wholly or partly within the geographical area of the community council area shall be ex-officio members of the community council.
- 6.5 Ex-officio members shall not be eligible to be elected or co-opted representatives and shall have no entitlement to vote, move motions or amendments or hold office.

Consultation Response(s) in respect of Paragraphs 6.4 & 6.5:

One community council, while recognising that community councils do benefit from Councillor attendance, has raised issues with regard to potential conflicts of interest with MP's, MSP's and MEP's being ex-officio members. Another community council has indicated that where MSP's are unable to attend their meetings, an update of their work is included in the community newsletter.

Officers' Comment/Recommendation:

The role of an ex-officio member is clearly defined, which is to act as a conduit to provide information to community councils on matters of interest to them, and to hear the views of the community as expressed by the community council. It is not considered, therefore, that there are any issues relating to potential conflicts of interest, particularly bearing in mind that ex-officio members have no entitlement to vote, move motions or amendments or to hold office.

Recommendation 11 - No change.

Associate Members

- 6.6 Associate members may be appointed by a community council where there may be a need for individuals with particular skills or knowledge. Associate members have no entitlement to vote, move motions or amendments or hold office. They may serve for a fixed period as determined by the community council or for the term of the office of the community council that has appointed them. Associate members may also include for example someone with experience in IT or environmental issues.

7. Community Council Elections

Eligibility

- 7.1 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.

- 7.2 Sixteen and seventeen year-olds residing in the community council area and named on the Electoral Register for that area and subject to the provision of paragraph 6 above, 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 new residents.
- 7.3 Any community council member who no longer resides within that community council area will have their membership terminated from the date their residency ceases from that community council.
- 7.4 Any individual who is elected to serve on East Ayrshire Council, 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.

Consultation Response(s) in respect of Paragraph 7.4:

One individual has queried why you can stand as a local Councillor and MSP but restrict Community Councillors from becoming Local Councillors, MSP's etc.

Officers' Comment/Recommendation:

The issue here is in relation to the roles and responsibilities attached to the office of Local Councillor or Member of the Scottish, UK or European Parliaments which would present clear conflicts of interest with the role of a Community Councillor to the extent that membership of the community council could not be sustained and would compromise the role of the Councillor or Member of Parliament.

Recommendation 12 - No change.

Elections

- 7.5 The first elections to be held under the scheme shall be held on a date or dates to be determined by East Ayrshire Council's Head of Democratic Services.

Consultation Response(s) in respect of Paragraph 7.5:

One community council has stated that it should not be for the Local Authority to decide on the date of the elections but be up to the community councils.

Another community council welcomed the introduction of a timetable of elections to avoid community councils in 'limbo'.

Officers' Comment/Recommendation:

If all elections are to be organised by East Ayrshire Council, there needs to be a managed approach to the scheduling of dates to ensure elections can be accommodated within staffing resources available. The proposed role out of elections will provide for a structured and managed approach to future elections and will ensure that the transition process for community councils will be seamless.

Recommendation 13 - No change.

- 7.6 Subsequent elections will be held on a four-yearly-cycle, outwith local government election years, on dates to be determined by East Ayrshire Council's Head of Democratic Services. 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.

Consultation Response(s) in respect of Paragraph 7.6:

A community council originally carried out yearly elections which, in their opinion, ensured the community council reflected the attitude of the community and ensured wider participation of people in the community council and gave more people experience of office holding. This is a step backwards. The community council has requested a declaration by East Ayrshire Council that “East Ayrshire Council recognises Community Councils as autonomous voluntary organisation and does not, and shall not, seek to control their legitimate functions as set out in their respective constitutions”.

Another Community Council states that 4 yearly elections are too long.

Officers’ Comment/Recommendation:

The Council’s current community council scheme provides for community council elections every 3 years and the draft scheme provides for such elections on a 4 yearly cycle, and it is not considered that this would compromise the autonomy or functions of Community Councils.

The draft scheme recognises the independence of community councils and provides a framework by which community councils can carry out their duties.

Community councils should appoint office bearers annually at their AGM.

Recommendation 14 - No change.

7.7 All elections will be administered by East Ayrshire Council.

Consultation Response(s) in respect of Paragraph 7.7:

One community council has queried the cost of such elections (staff involvement, equipment etc) throughout East Ayrshire, based on their experience in 1999 when the Council ran an election for them and consider this would be excessive for a small community council. A second community council considers that this provision questions whether community councils are capable of carrying out efficient elections.

A third community council has questioned that in the present economic climate when Councils are facing decisions regarding staffing and delivery of front line services the proposal to take on more work in organising community council Elections should perhaps not be a priority.

Officers' Comment/Recommendation:

The principle of East Ayrshire Council running an election is to separate community councils from the process and protect community councils in terms of the avoidance of issues arising from the responsibility of the election process, conflict of interest etc. The National Scheme seeks to raise the status of community councils and the provision of appropriate support by East Ayrshire Council including the administration of elections contributes to and enhances that approach. In addition, this will ensure the application of best practice and of a standard approach to the administration of elections and this will, in turn, benefit the community councils. The costs to be incurred by East Ayrshire Council will be minimised through the use of existing equipment and staff costs will be kept to a minimum and within existing budgets. It should be noted that the Council's existing community council scheme makes provision for all initial elections to be carried out by East Ayrshire Council and for subsequent elections also to be undertaken by the Council, upon the request of the community council concerned.

Recommendation 15 - No change.

- 7.8 The Chief Executive of East Ayrshire Council or her nominee shall act as Returning Officer for elections administered by East Ayrshire Council and shall be responsible for regulating the conduct of these elections. The decision of the Returning Officer or her nominee on all matters of election and nomination procedures shall be final.

Consultation Response(s) in respect of Paragraph 7.8:

Reference to “her” should be changed to “her/him”.

Officers’ Comment/Recommendation:

Accepted.

Recommendation 16 - Change references to “her/him”.

Nominations

- 7.9 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. 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.
- 7.10 A nomination form should be completed and submitted by the date set down in the election timetable. No nomination forms submitted after that date will be accepted.

Consultation Response(s) in respect of Paragraph 7.10:

A community council has queried the need to complete a nomination form as it is difficult enough to attract members without putting obstacles in the way.

Officers’ Comment/Recommendation:

All nominations to hold a particular position require a written nomination of sorts. Nomination forms duly completed and properly proposed and seconded enables (i) confirmation that the candidate wishes to stand for election; (ii) a check to be made that the candidate’s eligibility; and (iii) clarification that there is support for the candidate to become a community council member.

Recommendation 17 - No change.

Process

7.11 At the end of nomination period:

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 1 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 number of available places, a ballot will take place. At the ballot, 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. For example, if there are 21 candidates and 14 vacancies, each voter can vote for up to 14 candidates but cast only 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, that does not preclude the Local Authority from issuing a second call for nominations for the community council area failing to meet the minimum membership requirement within six months of the closing date for the registration of the first call for nominations.

Consultation Response(s) in respect of Paragraph 7.11:

A community council has requested that there should be the provision that the existing community council should be informed of the number of nominations received by the closing date. Also, if insufficient nominations are received, there should be scope to extend the closing date for nominations for an additional week. This would allow the community council to promote the vacancies. The community council have therefore suggested this paragraph be changed to reflect this.

Officers' Comment/Recommendation:

It is imperative that the election process, from start to finish, is and is seen to be totally independent of any third party with an interest in the process, and as part of this it would not be appropriate for information such as the number of nominations received prior to the closing date for nominations being intimated to any third party. Furthermore, the schedule for the holding of a community council election needs to be determined and published in advance for the benefit of all parties.

Recommendation 18 - No change.

Method of Election

- 7.12 Elections shall be conducted by secret ballot of local electors, organised by East Ayrshire Council, as determined appropriate by East Ayrshire Council's Head of Democratic Services. Community Councils shall be elected on a simple majority basis.

Filling of casual places/vacancies between elections

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

- Death of an elected community council member;
- 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 in accordance with paragraph 9 of this scheme.

- 7.14 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 East Ayrshire Council. 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, East Ayrshire Council 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

- 7.15 Co-opted members must be eligible for membership of the community council as detailed in Section 6 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.

- 7.16 The number of co-opted members may not exceed a **THIRD** of the 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 Representatives

- 7.17 Associate members may be appointed by a community council where there may be a need for individuals with particular skills or knowledge. Associate representatives have no entitlement to vote, move motions or amendments or hold office. They 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 representatives may also include for example someone with experience in IT, or environmental issues.

Ex-Officio Members

- 7.18 East Ayrshire 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 have no entitlement to vote, move motions, or amendments or hold office.

8. Equalities

- 8.1 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

- 9.1 Membership of a community council is invalidated should a community councillor's residency qualification within that community council area cease to exist.
- 9.2 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 shall terminate their membership. However, at the discretion of individual community councils and at the request of the individual member of the community council, a period of leave of absence of up to 3 consecutive months may be granted at any meeting of the community council.

Consultation Response(s) in respect of Paragraph 9.2:

Four community councils have intimated concerns with this paragraph. Work commitments, holidays or illness could lead to unnecessary disqualification and community councils should have discretion in this area.

Officers' Comment/Recommendation:

It is recognised that there may be extenuating circumstances for Community Councillors non attendance at meetings for extended periods and this should be taken into account. There should still be provision for community councils to remove those Community Councillors who fail to attend without legitimate reasons.

Recommendation 19 - Replace the word "shall" with "may" to give Community Councils appropriate discretion in this area.

10. Meetings

- 10.1 The first meeting of a community council following a community council election, will be called by the Returning Officer or her nominee 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.
- 10.2 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 no later than 30 September each year to which the Annual Report and Financial Accounts of the community council for the previous year should be submitted.

Consultation Response(s) in respect of Paragraph 10.2:

Two community councils have indicated that the submission of Audited Accounts to an AGM are dependent on external auditors, having these ready for community councils in time. Also, some community councils are in recess during July and August so it may not be feasible to hold an AGM by 30 September. One community council has suggested dates for AGM's to be tied into election dates.

Officers' Comment/Recommendation:

Community councils are requested to submit their accounts for audit as soon as possible after 31 March. Arrangements are in place for them to be dealt with by the Auditor as quickly as possible upon receipt. These arrangements provide sufficient time for preparation of the Community Councils Audited Accounts for submission to an AGM before the end of September, however, it is recognised that this may present administrative difficulties for some community councils arising from the summer recess period and it is therefore proposed that the requirement be for community councils to hold their AGM's by 31 October each year. A schedule of elections is determined independently of AGM's on a 4 yearly basis.

Recommendation 20 - Amend 2nd sentence in Paragraph 10.2 to read "the Annual General Meeting shall be held no later than 31 October each year"

- 10.3 The quorum for community council meetings shall be one third of the current voting membership of a community council.

Consultation Response(s) in respect of Paragraph 10.3:

One Community Council has requested that the quorum be 4 or 1/3 whichever is greater, otherwise smaller Community Councils could pass resolutions with only 2 or 3 members.

Officers' Comment/Recommendation:

It is recognised that this may be an issue for smaller Community Councils and that a minimum number for a quorum should be stipulated regardless of the size of the Community Council.

Recommendation 21 - Reword paragraph to "The quorum for community council meetings shall be 1/3 of the current voting membership of a community Council or 3 voting members, whichever is the greater".

10.4 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

11.1 In order to facilitate the effective functioning of community councils, the local authority has identified that the Administration Manager, Democratic Services 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.

11.2 Community councils may make representations to the Council, its Community Planning Partners 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 council official. On issues where a council department is consulting with community councils, representations should be made to the appropriate departmental officer.

Consultation Response(s) in respect of Paragraphs 11.1 and 11.2:

One community council feels that the requirement to direct all correspondence through the Administration Manager would compromise the independence of the community council and stifle the community council. Another community council thinks that the role of the Administration Manager should be one of facilitator - resolving complaints made by the community council and updating the community council on progress with various matters. Also, paragraphs 11.1 and 11.2 should be reversed.

Officers' Comment/Recommendation:

Sections 11.1 and 11.2 make it clear that community councils are free to contact Departments of the Councils or Community Planning Partners regarding service related issues and the provision of a Liaison Officer is to ensure community councils have a designated point of contact who can provide appropriate guidance and assistance to the community council on any issues they may have. The purpose of this provision is to assist community councils in conducting their business with East Ayrshire Council and reflects current practice which has worked well in the past.

Recommendation 22 - No change.

11.3 Community councils shall provide copies of their agendas and minutes within prescribed timescales to East Ayrshire Council's Administration Manager, Democratic Services.

12. Resourcing a Community Council

12.1 The financial year of each community council shall be provided for in the constitution of each community council and shall be from **1 April to 31 March** in each succeeding year to allow for the proper submission of audited statement of accounts to the community council's annual general meeting.

12.2 The Annual Accounts of each community council shall be audited by a person or persons appointed by the Executive Director of Finance and Corporate Support. It shall be the duty of each community council to hand over to those person(s) appointed by the Executive Director as requested by him to allow the audit to be carried out.

12.3 The Head of Democratic Services, in consultation with the appointed auditors or the council's Finance Service, may require the community council to produce such records, vouchers and account books, as may be required, to satisfy the council that the financial affairs of the community council are in order.

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

12.5 Each community council shall be eligible to apply for grants for suitable projects through the council's local grant system or other such sources as the council may intimate from time to time.

12.6 East Ayrshire Council will provide an annual grant towards the administrative and general running costs of community council's to allow them to promote their activities, to be paid following satisfactory review of previous grant expenditure. Such funding cannot be used for any political purposes or for supporting any political activities. Guidance notes on expenditure of the annual grant will be provided by the Head of Democratic Services and will be subject to review from time to time.

Consultation Response(s) in respect of Paragraph 12.6:

A community council has suggested that discretion be given, within reason, to spend the annual grant given by East Ayrshire Council for running costs on other items of expenditure.

Officers' Comment/Recommendation:

Guidance currently provided on use of the annual grant allows for expenditure on running costs and promotion of the community council and is not considered to be overly prescriptive. However, as indicated, Officers will review these guidance notes to ensure there is flexibility for community councils.

Recommendation 23 - No change, but note that the Head of Democratic Services will separately review the guidance notes on the use of the annual grant and provide these to community councils.

- 12.7 East Ayrshire Council 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.
- 12.8 East Ayrshire Council shall make available to Community Councils an accommodation allowance in the form of up to 15 lets per annum of East Ayrshire Council premises free or charge to enable the community council to meet. If a community council can demonstrate a need for further lets for community council business, the Council may, through the appropriate department, consider an application for further free lets. Community councils may access council premises for other purposes, such as social functions, which would be charged at the appropriate rate.
- 12.9 The Head of Democratic Services 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 East Ayrshire Council and other relevant topics.

13. Dissolution of a Community Council

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

If a community council fails 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 has taken action to address the situation, East Ayrshire council may take action to dissolve that community council.

Consultation Response(s) in respect of Paragraph 13:

Two community councils have indicated that their summer recess is over 2-3 months and have questioned that if a meeting before or after the recess is missed, would this lead to dissolution?.

Officers' Comment/Recommendation:

Paragraph 13 provides that the community council will be dissolved in the event that meetings are not held for a period of 3 consecutive prescribed meeting dates. The community councils make reference to the potential meetings not taking place on consecutive months rather than consecutive prescribed meeting dates.

Furthermore, the proposed paragraph indicates that the community council has the opportunity in such circumstances to take action to resolve problems prior to the community council being dissolved.

Recommendation 24 - No change.

ANNEXATION

<u>Names of Community Councils</u>	<u>Description</u>	<u>Population of Area</u>	<u>Maximum No of Members</u>	<u>Minimum No of Members</u>	<u>Maximum No of Co-opted Members</u>
(1)	(2)	(3)	(4)	(5)	(6)
Auchinleck	Auchinleck District	3971	17	9	5
Bellfield Kilmarnock	Bellfield	3972	17	9	5
Bonnyton	Bonnyton/Kilmarnock Central West	3067	16	8	5
Catrine	Catrine District	2209	14	7	4
Crosshouse	Crosshouse District	2558	15	8	5
Cumnock	Cumnock	6843	23	12	7
Dalmellington	Dalmellington District, including Bellsbank, Waterside, Dunaskin	3275	16	8	5
Dalrymple	Dalrymple District, excluding Polnessan	1823	13	7	4
Darvel and District	Darvel District	3921	17	9	5
Drongan, Rankinston & Stair	Drongan, Rankinston & Stair	4135	18	9	6
Dunlop and Lugton	Dunlop & Lugton District	1316	12	6	4
Fenwick	Fenwick District	1257	12	6	4
Galston	Galston District	5149	20	10	6
Gatehead	Gatehead District	262	10	5	3
Grange/Howard Kilmarnock	Grange/Howard	5695	21	11	7
*Hurlford and Crookedholm	Hurlford & Crookedholm District	5393	20	10	6
Kilmaurs	Kilmaurs District	3081	16	8	5
Knockentiber	Knockentiber District	649	11	6	3
Lugar and Logan	Lugar & Logan District	1509	13	7	4
Mauchline	Mauchline District	4427	18	9	6
Moscow and Waterside	Moscow & Waterside District	741	11	6	3
Muirkirk	Muirkirk District	1768	13	7	4
Netherthird & District	Netherthird & Skerrington	2499	14	7	4
New Cumnock	New Cumnock District	3481	16	8	5
New Farm Loch Kilmarnock	New Farm Loch	6661	23	12	7
Newmilns and Greenholm	Newmilns & Greenholm District	3258	16	8	5
Northwest Kilmarnock	Northwest Kilmarnock including Longpark	7510	25	13	8
Ochiltree	Ochiltree District & Skares	1373	12	6	4
Patna	Patna, Doonbank & Polnessan	2402	14	7	4
Piersland/Bentinck Kilmarnock	Piersland/Bentinck	4371	18	9	6
Riccarton Kilmarnock	Riccarton	3443	16	8	5
Shortlees Kilmarnock	Shortlees	3509	17	9	5
Sorn	Sorn District	618	11	6	3
Southcraigs/Dean	Southcraigs, Wardneuk, Beansburn & Dean	6356	22	11	7
Stewarton and District	Stewarton District	7598	25	13	8

Membership of Community Councils in the Scheme is based on the figures extracted from the 2008 small area population estimates issued by the General Register Officer for Scotland. Community Councils or other parties may approach the Council to request that population figures are reviewed, in light of perceived population change. Population statistics will be updated on a regular basis in accordance with the provisions of the Scheme.

Above descriptions are indicative of areas. However, definitive boundaries are provided in maps which are available for inspection at Council Headquarters, London Road, Kilmarnock, or on the Council's website at www.east-ayrshire.gov.uk.

* For electoral purposes Hurlford shall have 15 members and Crookedholm shall have 5. Where nominations from one community are under subscribed, the vacancies attributed to that community may be filled by any excess nominations from the other community up to the total available.

NB: The information featured in this Annexation is subject to change depending upon the outcome of the initial expression of interest received from residents of Crossroads to create a new Community Council for that area.

APPENDIX II

MODEL CONSTITUTION FOR COMMUNITY COUNCILS

1. Name

The name of the COMMUNITY COUNCIL shall be
(referred to as “the COMMUNITY COUNCIL” in this document).

2. Area of the Community Council

The area of the COMMUNITY COUNCIL shall be as shown on the map attached to East Ayrshire Council’s Scheme for Community Councils.

3. Objectives

The objectives of the COMMUNITY COUNCIL shall be:

- (a) to ascertain, co-ordinate and reflect the views of the community which it represents, to liaise with other community groups within the area, and to fairly express the diversity of opinions and outlooks of the people;
- (b) to express the views of the community to the local authority for the area to public authorities and other organisations;
- (c) to take such action in the interests of the community as appears to it to be desirable and practicable;
- (d) to promote the well-being of the community and to foster community spirit;
- (e) to be a means whereby the people of the area shall be able to voice their opinions on any matter affecting their lives, their welfare, their environment, its development and amenity.

4. Role and Responsibilities

In the discharge of their functions and the conduct of their business, the COMMUNITY COUNCIL and its membership shall have regard to their role and responsibilities as set out in paragraph 3 of East Ayrshire Council’s Scheme for Community Councils and the Community Councillors’ Code of Conduct.

5. Membership

The COMMUNITY COUNCIL’S membership is as governed by paragraph 6 of East Ayrshire Council Community Councils and as determined from time to time by East Ayrshire Council.

6. Method of Election

Election procedures shall be governed by the method of election laid down in paragraph 7 of East Ayrshire Council's Scheme for Community Councils.

7. Casual Vacancies on the Community Council

Where a vacancy arises which does not result in the number of COMMUNITY COUNCILLORS falling below the minimum number as specified in paragraph 6 of East Ayrshire Council's Scheme for the Establishment of Community Councils, and at least 6 months has passed since the last election, the COMMUNITY COUNCIL may, if it considers it to be desirable, agree to:-

- (a) an extraordinary general meeting be held in order that the vacancy (and any other outstanding vacancies) can be filled, on the basis that such vacancies would be publicised, nominations invited and an election held where the number of candidates exceeded the number of places available. Interim elections will be administered by East Ayrshire Council.
- (b) the filling of a vacancy by co-option with voting rights to a maximum of one third of the total membership of the community council as governed by paragraph 7 of East Ayrshire Council's Scheme for Community Councils.
- (c) the vacancy to be left unfilled until local public interest is expressed or until the next set of regular elections.

8. Voting Rights of Members of the Community Council

The right to vote at any meeting of the COMMUNITY COUNCIL or any committee thereof, shall be held by all COMMUNITY COUNCILLORS whether elected or co-opted, but not by Associate Members appointed for specific issues on a temporary basis, or *ex-officio* members. With the exception of circumstances which may arise under East Ayrshire Council's **Scheme for Community Councils**: Paragraph 7.17 – Community Council Elections [Co-option]; and **Constitution**: Clause 16 – Alterations to the Constitution and its Clause 17 – Dissolution, all decisions of the COMMUNITY COUNCIL will be decided by a simple majority of those eligible to vote and present and voting.

In the event of a vote of the community councillors that results in a majority not being achieved, the chairperson shall have a casting vote.

9. Election of Office-Bearers

- (a) At the first meeting of the COMMUNITY COUNCIL after elections in the year when elections are held and at the Annual General Meeting in **(to be determined locally in accordance with East Ayrshire Council's Scheme for Community Councils)** in the year when elections are not held, the COMMUNITY COUNCIL shall appoint a Chair, Secretary,

Treasurer and other such office-bearers as it shall from time to time decide.

- (b) All office-bearers shall be elected for one year, but shall be eligible for re-election, without limitation of time.
- (c) Without the express approval of the local authority, no one member shall hold more than one of the following offices at any one time: Chairperson, Secretary or Treasurer.

Consultation Response(s) on Clause 9(c):

A community council has expressed concern regarding this proposal but has not expanded further.

An individual supports the terms of Clause 9(c) but suggests that this can be done without Local Authority approval and, further, agrees that the member who holds the position of Treasurer should not hold any other office bearers position.

Officers' Comment/Recommendation:

In terms of good practice, it is recognised that an individual member should hold only one office bearers position, for reasons associated with separation of responsibilities, financial management and management of workload. However, it is recognised that there may be occasions, where a member may require to take on the role of more than one office bearer for a temporary period and in recognising the need to sustain community councils, such an arrangement should be notified to the Local Authority for due consideration on its individual merits.

Recommendation 24 - No change.

10. Committees of the Community Council

The COMMUNITY COUNCIL may appoint representatives to committees of the COMMUNITY COUNCIL and shall determine their composition, terms of reference, duration, duties and powers.

11. Meetings of the Community Council

- (a) The quorum for COMMUNITY COUNCIL meetings shall be at least one third of the current eligible voting membership.

In line with Recommendation 21, reword paragraph to read "The quorum for community council meetings shall be 1/3 of the current voting membership of the community council or 3 voting members, whichever is the greater".

- (b) Once in each year, no later than 31 October, the COMMUNITY COUNCIL shall convene an annual general meeting for the purpose of receiving and considering the Chairperson's annual report on the COMMUNITY COUNCIL, the submission and approval of the independently examined annual statement of accounts and the appointment of office bearers.
- (c) Including the annual general meeting, the COMMUNITY COUNCIL shall meet not less than 7 times throughout the year.
- (d) Dates, times and venues of regular meetings of the COMMUNITY COUNCIL shall be fixed at the first meeting of the COMMUNITY COUNCIL following ordinary elections and thereafter at its annual general meeting. Special meetings shall require at least 10 days public notice, either called by the Chairperson, or on the request of not less than one-half of the total number of COMMUNITY COUNCIL members. An officer of the local authority has the discretion to call a meeting of the COMMUNITY COUNCIL.

Consultation Responses on Clause 11(d):

One community council has indicated that it could be impossible to give 10 days notice of a Special Meeting, especially if the meeting involved a planning application. The community council have stated that often the community council does not even have 10 days notice of when planning objections are due in.

Another community council has stated it would not be possible to set dates, times and venues for the forthcoming year as members holidays/public holidays need to be taken into account and that setting a calendar six months in advance is enough.

Another community council has stated it doesn't have access to bookings (i.e. run by Community Association) for long term booking.

Officers' Comment/Recommendation:

It is good practice to set in advance a schedule of meetings giving dates, times and venues and community councils should adhere to this. Indeed, currently community councils tend to set meeting dates on a particular day of the month which, in practice, has the same effect as what is being proposed. Notwithstanding that there may be some practical consideration for community councils which they may require to manage with regard to the calling of Special Meetings, it is good practice to give appropriate notification, however, it is recognised that there may be extenuating circumstances which would require special meetings to be called at shorter notice.

Furthermore, it is considered that the provision under which an officer of the Local Authority has discretion to call a meeting of the community council be deleted since past practice has shown that community councils have been receptive to requests to hold special meetings where requested to do so by East Ayrshire Council.

Recommendation 25 - 2nd sentence of Clause 11(d) to be changed to read "Special meetings shall require at least 10 days public notice (unless there are extenuating circumstances) either called by the Chairperson, or on the request of not less than one-half of the total number of community council members; and the last sentence of Clause 11(d) to be deleted".

- (e) Copies of all minutes of meetings of the COMMUNITY COUNCIL and of committees thereof shall be approved at the next prescribed meeting of the COMMUNITY COUNCIL, but the draft minute shall be circulated within 14 days from the date of that meeting, to COMMUNITY COUNCIL members, other appropriate parties and the local authority's liaison officer for COMMUNITY COUNCILS.

Consultation Response(s) on Clause 11(e):

A number of respondents have queried why agendas and minutes should be submitted within 14 days from the date of each meeting, as minutes are unadopted until formally adopted at the next community council meeting.

Officers' Comment/Recommendation:

Officers accept that minutes would be unadopted at this stage.

Recommendation 26 - Delete from "but the draft Minute Community Councils".

- (f) The COMMUNITY COUNCIL shall abide by its Standing Orders for the proper conduct of its meetings.
- (g) The COMMUNITY COUNCIL has a duty to be responsive to the community it represents. Should the COMMUNITY COUNCIL receive a written request (petition), signed by at least 20 persons resident within the COMMUNITY COUNCIL area to convene a special meeting for a particular matter or matters to be debated, it shall call such a meeting within 14 days of receipt of such a request and advertise it in the manner prescribed locally for special meetings called by the COMMUNITY COUNCIL.

Consultation Response(s) on Clause 11(g):

One community council has indicated that a community council could easily be subjected to manipulation and abuse by individuals or the community for their own reasons and could cause a constant round of extra meetings; and that the community council should have the power to refuse such requests if they think fit.

Another community council thinks the number should be more than 20 and questions why this is necessary when community councils meet regularly.

Officers' Comment/Recommendations:

The National scheme focuses on the roles and responsibilities of community councils emphasising the need to adhere to sound democratic principles. It is recognised that community councils are, in nature, voluntary organisations and it is not the intention of this clause to propose additional administrative or work burdens on such volunteers. However, it is not considered unreasonable that local electors should have the opportunity to request that a meeting of the community council takes place and the requirement for 20 electors to sign such a request is considered reasonable and reflects the number of petitioners which is required to set in process arrangements for the establishment of a community council. This provision consolidates the role of the community council within the local community and, indeed, it may be the case that the community council may already have initiated action in respect of that matter which is the subject of the request for the special meeting.

Recommendation 27 - No change.

- (h) The COMMUNITY COUNCIL can meet to discuss items of business in private where it considers it appropriate to do so. The decision to meet in private will be agreed in advance and decided by a majority vote. Notice of such a meeting will be given to the public in the usual way. However, the Notice will record that the meeting, or a part thereof, shall be held in private.

Consultation Response(s) to Clause 11(h):

One community council have indicated that this is unworkable as often an item can be received late and deemed at the last minute to be better discussed in private. The community council has also indicated that this would be an additional administrative burden.

Officers' Comment/Recommendation:

It is not the intention that this provision should add to the administrative burden of community councils. The community council can, where they see fit, agree to take an item of business in private. Where this may be the case, the calling notice will make a recommendation to the community council that the matter be so considered. This ensures that all community council members, and members of the public, are aware in advance of the status of this item. It will then be a matter for the community council, at the beginning of the meeting, to decide whether the item is to be taken in private. In circumstances where an item of business which may require to be dealt with in private is received late, it will again be for the community council at the beginning of the meeting to decide whether this item is to be taken in private although in this situation it is recognised in practical terms no prior notice could be given to members of the public.

Recommendation 28 - Change paragraph to read: "The Community Council can discuss items of business in private where it considers it appropriate to do so. Where time permits, notice of the meeting along with items to be discussed will be given to the public in the usual way, and the Notice will recommend that the meeting, or a part thereof, shall be held in private".

12. Public Participation in the Work of the Community Council

- (a) All meetings of the COMMUNITY COUNCIL and its committees (subject to 11(h), above) shall be open to members of the public. Proper provision is to be made for the accommodation of members of the public and the opportunity should be afforded at each meeting to permit members of the public to address the COMMUNITY COUNCIL, under the guidance of the Chairperson.

Consultation Response on Clause 12(a):

One community council has queried how such accommodation could be provided in a small meeting room.

Officers' Comment/Recommendation:

It is recognised that all community council meetings should be open to the public and, as a matter of principle, arrangements should be made by the community council, where practicable, to ensure a reasonable public access. It is accepted that, in some cases, there may be limited accommodation to facilitate public access but this should be borne in mind by community councils in organising meetings and fixing venues.

Recommendation 29 - No change.

- (b) Notices calling meetings of the COMMUNITY COUNCIL and its committees shall be posted prominently within the COMMUNITY COUNCIL area for a minimum period of ten days before the date of any such meeting, and, where possible, be advertised by other suitable means.

13. Information to East Ayrshire Council

East Ayrshire Council's Administration Manager: Democratic Services shall be sent an annual calendar of the COMMUNITY COUNCIL'S prescribed meeting dates, times and venues, which should be agreed at the COMMUNITY COUNCIL'S annual general meeting, minutes of all meetings, the annual report, the annual financial statement and any other such suitable information, as may from time to time be agreed between the COMMUNITY COUNCIL and East Ayrshire Council. When special meetings of the COMMUNITY COUNCIL are to be held, East Ayrshire Council's Administration Manager: Democratic Services should be advised of the date, time venue and subject(s) of debate of such meetings, at least 10 days in advance of the meeting date.

Consultation Response to Clause 13:

Two community councils have indicated that this is not acceptable. They indicate that the independence of the community council is being eroded and that there should be no requirement to let the Council know subjects being discussed. They also indicate that as for giving at least 10 days notice, it is quite probably that the meeting would be held less than 10 days from the decision to hold it.

Officers' Comment/Recommendation:

This provision is not intended to erode the independence of the community council, but seeks to confirm and maintain the link between the Local Authority and the community council through the proper and timeous submission of relevant documentation by the community council to the Local Authority

Having regard to the alterations made to Clause 11(d) of the Model Constitution relating to the requirement for 10 days public notice of special meetings, it is recognised that it may not always be possible for the community council to advise East Ayrshire Council 10 days in advance of special meetings.

Recommendation 30 - Change 2nd sentence of Clause 13 to read "When special meetings of the community council are to be held, East Ayrshire Council's Administration Manager, Democratic Services, shall be advised of the date, time, venue and subject(s) of debate at such meetings, where possible, at least 10 days in advance of the meeting date".

14. Control of Finance

- (a) All monies raised by or on behalf of the COMMUNITY COUNCIL or provided by East Ayrshire Council and other sources shall be applied to further the objectives of the COMMUNITY COUNCIL and for no other purpose. The monies provided by East Ayrshire Council in the annual Administrative Grant for administrative and other approved purposes shall be used only as prescribed. Monies raised from other sources may be used in accordance with the terms of this provision (so long as they are consistent with the objectives of the community council), or in the absence of such terms, for the furtherance of the objectives of the COMMUNITY COUNCIL.
- (b) The treasurer shall undertake to keep proper accounts of the finances of the community council.
- (c) Any two of three authorised signatories, who would normally be office-bearers of the community council, may sign cheques on behalf of the

COMMUNITY COUNCIL. Authorised signatories may not be co-habitees.

- (d) A statement of accounts for the last financial year, shall be examined in accordance with arrangements established by East Ayrshire Council and shall be submitted to an annual general meeting of the COMMUNITY COUNCIL and shall be available for inspection at a convenient location.
- (e) The financial year of the COMMUNITY COUNCIL shall be from 1 April to 31 March the succeeding year. Examined accounts as received and approved by the COMMUNITY COUNCIL at the annual general meeting shall be submitted East Ayrshire Council following approval at the community council's annual general meeting.

15. Title to Property

Property and other assets belonging to the COMMUNITY COUNCIL shall be vested in the Chair, Secretary and Treasurer of the COMMUNITY COUNCIL and their successors in these respective offices.

16. Alterations to the Constitution

Any proposal by the COMMUNITY COUNCIL to alter this Constitution must be first considered by a meeting of the COMMUNITY COUNCIL and the terms of the proposal to alter the Constitution shall be stated on the notice calling the meeting, which shall be issued not less than ten days prior to the meeting. Any proposed alterations may not prejudice the terms and objectives contained within the Scheme for the Establishment of Community Councils.

If the proposal is supported by two-thirds of the total voting membership of the COMMUNITY COUNCIL and is approved in writing by East Ayrshire Council, the alteration shall be deemed to have been duly authorised and can then come into effect.

Consultation Response(s) on Clause 16:

One community council has queried that the Council seems to be determined to control every move made by community councils and that yet again the community council cannot be allowed to change anything on their own.

Officers' Comment/Recommendation:

The provision for East Ayrshire Council to approve any proposed amendment to a community council Constitution is to ensure that, before being effected, the proposal accords with the community council scheme and relevant legislation. In terms of all such contact between East Ayrshire Council and community councils, the aim is to provide support, assistance and advice to the community council as required, rather than to control the community council. It is the case, that in the past, community councils have been comfortable in seeking the guidance and advice of the Council with regard to proposed amendments to the Constitution, and concerns have arisen on the part of community councils relative to the issue to which the community council has alluded in the consultation response.

Recommendation 31 - No change.

17. Dissolution

If the COMMUNITY COUNCIL by a two-thirds majority of the total voting membership decides at any time that it is necessary or advisable to dissolve, it shall agree a date for a public meeting to be held to discuss the proposed resolution to dissolve. It is a requirement that not less than ten days prior to the date of such meeting a public notice be given by means of notification in the local newspaper. If the resolution is supported by a majority of those persons present and qualified to vote and is approved by East Ayrshire Council, the COMMUNITY COUNCIL shall be deemed to be dissolved and all assets remaining, subject to the approval of East Ayrshire Council, after the satisfaction of any proper debts or liabilities shall transfer to East Ayrshire Council who shall hold same in Trust for a future COMMUNITY COUNCIL representing that area.

In the event that the COMMUNITY COUNCIL is dissolved under the above procedure, and twenty or more electors subsequently wish the re-establishment of a COMMUNITY COUNCIL for the area, these electors shall submit a requisition to East Ayrshire Council in accordance with Section 52(7) of the Local Government (Scotland) Act 1973, on receipt of which the Returning Officer shall arrange for elections to be held in accordance with the Scheme for the Establishment of Community Councils.

Where for any reason, the number of COMMUNITY COUNCIL members falls below the minimum specified in the East Ayrshire Council Scheme for Community Councils, East Ayrshire Council may, by suspending the Constitution of the COMMUNITY COUNCIL, cause the COMMUNITY COUNCIL to be dissolved and in this event, the procedures for the establishment of a new COMMUNITY COUNCIL being those identified in the immediately preceding paragraph hereof, shall be initiated.

18. Approval and adoption of the Constitution

This Constitution was adopted by
COMMUNITY COUNCIL, on

.....

Signed: Chairman

.....

Member

.....

Member

.....

Date

.....

and was approved on behalf of East Ayrshire Council on

.....

Signed

.....

Date

.....



APPENDIX III

MODEL STANDING ORDERS

1. Meetings (all held in public)

- (a) Ordinary meetings of the COMMUNITY COUNCIL shall be held in the months of [to be entered]. Special Meetings may be called at any time on the instructions of the Chairperson of the community council on the request of not less than one-half of the total number of COMMUNITY COUNCIL members; or the receipt of a common written request (petition), signed by at least 20 persons, resident within the COMMUNITY COUNCIL area, to convene a special meeting for a particular matter or matters to be debated, it shall call such a meeting. A special meeting shall be held within 14 days of the receipt of the request made to the Secretary of the COMMUNITY COUNCIL. Annual general meetings are held annually.
- (b) The notice of ordinary and annual general meetings of the COMMUNITY COUNCIL, featuring the date, time and venue, shall be provided to each COMMUNITY COUNCIL member and the local authority's named official by the Secretary of the COMMUNITY COUNCIL, at least 10 days before the date fixed for the meeting.

2. Minutes

Minutes of the proceedings of a meeting of the COMMUNITY COUNCIL shall be drawn up within fourteen days from the date of that meeting, distributed in accordance with paragraph 3 of the Scheme of Community Councils and shall, following their approval, be signed at the next meeting of the COMMUNITY COUNCIL by the person presiding thereat and retained for future reference.

Recommendation 32 - In line with Recommendation 27 reword Paragraph 2 to read "Minutes of the proceedings of a meeting of the community council shall be drawn up and submitted to the next meeting of the community council for approval and shall, following their approval, be signed at the next meeting of the community council by the person presiding thereat and retained for future reference".

3. Quorum

A quorum shall be one-third of the current voting membership of the COMMUNITY COUNCIL.

Recommendation 33 - In line with Recommendation 21 reword Section 3 to read "A quorum shall be one-third of the current voting membership of the community council or three voting members, whichever is the greater".

4. Order of Business

(i) Ordinary Meeting

The order of business at every ordinary meeting of the COMMUNITY COUNCIL shall be as follows: -

- (a) Recording of membership present and apologies received.
- (b) The minutes of the last meeting of the COMMUNITY COUNCIL shall be submitted for approval.
- (c) Any other item of business, which the Chairperson has directed, should be considered.
- (d) Any other competent business.
- (e) Questions from the floor.
- (f) Chairperson to declare date of next meeting and close meeting.

(ii) Annual General Meeting

It will not be uncommon that the COMMUNITY COUNCIL has arranged for an ordinary meeting of the COMMUNITY COUNCIL to begin at the close of the annual general meeting, to enable any outstanding reporting on business matters to be heard; and for COMMUNITY COUNCIL members and members of the public to have an opportunity to bring matters to the attention of the COMMUNITY COUNCIL, possibly for inclusion on a future agenda.

The order of business at every annual general meeting of the COMMUNITY COUNCIL shall be as follows: -

- (a) Recording of membership present and apologies received.
- (b) The minutes of the last annual general meeting of the COMMUNITY COUNCIL shall be submitted for adoption.
- (c) Chairperson's Annual Report (and questions from the floor).

- (d) Secretary's Annual Report (and questions from the floor).
- (e) Treasurer's submission of Balance Sheet and Annual Accounts duly independently examined and certified correct (and questions from the floor).
- (f) Demit of current office bearers/election of office bearers.
- (g) Chairperson to declare date of next annual general meeting and close meeting.

(iii) Extraordinary General Meeting

The order of business at every extraordinary general meeting of the COMMUNITY COUNCIL shall be as follows: -

- (a) Recording of membership present and apologies received.
- (b) Business for debate, as described in the calling notice for the special meeting.
- (c) Chairperson to close meeting.

5. Order of Debate

- (a) The Chairperson shall decide all questions of order, relevancy and competency arising at meetings of the COMMUNITY COUNCIL and her/his ruling shall be final and shall not be open to discussion. In particular, the Chairperson shall determine the order, relevancy and competency of all questions from the public in attendance at meetings of the COMMUNITY COUNCIL raised at 4, above. The Chairperson in determining the order, relevance and competency of business and questions shall have particular regard to the relevance of the issue to the community and ensure that the discussion and proceedings are conducted in such a manner that decisions are reached in a democratic manner. The Chairperson shall have the power, in the event of disorder arising at any meeting, to adjourn the COMMUNITY COUNCIL meeting to a time he/she may then, or afterwards, fix.
- (b) Every motion or amendment shall be moved and seconded.
- (c) After a mover of a motion has been called on by the Chairperson to reply, no other members shall speak to the question.
- (d) A motion or amendment once made and seconded shall not be withdrawn without the consent of the mover and seconder thereof.

- (e) A motion or amendment which is contrary to a previous decision of the COMMUNITY COUNCIL shall not be competent within six months of that decision.

Consultation Response in respect of Paragraph 5(e):

One community council has indicated that this is unsatisfactory. They have stated that new information or corrected information may have come to hand which has a major bearing on the decision.

Officers' Comment/Recommendation:

It is accepted that the terms of this provision may be restrictive and that there should be an option to reconsider decisions in appropriate circumstances, i.e. in the light of new information.

Recommendation 34 - Add additional sentence "...., except when 2/3rds of the voting Members present agree otherwise".

6. Voting

- (a) Voting shall be taken by a show of hands of those present and eligible to vote, with the exception that, at an annual general meeting, the election of office bearers may be held by secret ballot.
- (b) The Chairperson of a meeting of the COMMUNITY COUNCIL shall have a casting vote as well as a deliberative vote.

7. Alteration of Standing Orders

A proposal to alter these Standing Orders may be proposed to the local authority to be altered or added to at any time by the COMMUNITY COUNCIL, provided that notice of motion to that effect is given at the meeting of the COMMUNITY COUNCIL previous to that at which the motion is discussed. The local authority shall have final discretion on any proposed change.

Consultation Response(s) in respect of Paragraph 7:

One community council has stated that it is being curtailed and that it would appear that members are being treated as being unable to make a decision on their own standing orders.

Officers' Comment/Recommendation:

The provision for East Ayrshire Council to approve any proposed amendment to a community council's Standing Orders is to ensure that before being effected, the proposal is reasonable in terms of good practice in conduct of meetings. In terms of all such contact between East Ayrshire Council and community councils, the aim is to provide support, assistance and advice to the community council as required, rather than to control the community council.

Recommendation 35 - No change.

8. Committees

The COMMUNITY COUNCIL may appoint such committees as it may from time to time decide and shall determine their composition, terms of reference, duration, duties and powers.

9. Suspension of Standing Orders

These Standing Orders shall not be suspended except at a meeting at which three-quarters of the total number of COMMUNITY COUNCIL members are present and then only if the mover states the object of his motion and if two-thirds of the COMMUNITY COUNCIL members present consent to such suspension.

APPENDIX IV

EAST AYRSHIRE COUNCIL

CODE OF CONDUCT FOR COMMUNITY COUNCILLORS

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

Consultation Response:

One community council has indicated that there is one major difference between Community Councillors and East Ayrshire Councillors and that is remuneration. The community council has indicated that Community Councillors are volunteers who give up their time and talents for the benefit of their local area and the town in general, Community Councillors should not be expected to behave in the manner of East Ayrshire Councillors.

Officers' Comment/Recommendation:

The introduction of a Code of Conduct for Community Councillors is a means of raising the status of community councils ensuring the consistent application of standards throughout Scotland in this area of public activity. It is recognised that Community Councillors are volunteers, however, this is not relevant to the principles behind the introduction of the Code of Conduct.

Recommendation 36 - No change.

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

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 Councils Scheme for the Establishment of Community Councils, 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 to be considered by 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 Council's Scheme for the 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 Councils Scheme for the Establishment of 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 as soon as possible after each meeting.

Any breach of the Council's Scheme for the Establishment of Community Councils 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 interest of the community and the 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. This 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.