
Report to Clackmannanshire Council

Date: 16th December 2021

Subject: Scheme for the Establishment of Community Councils

Report by: Strategic Director Partnership & Performance

1.0 Purpose

- 1.1. The purpose of this report is for Council to consider the outcome of the second stage of consultation on the content of a proposed new Scheme for the Establishment of Community Councils.

2.0 Recommendations

- 2.1. It is recommended that Council approves the proposed new Scheme for the Establishment of Community Councils attached as Appendix 1 to this report for adoption.

3.0 Considerations

- 3.1. The Scheme for the Establishment provides the framework within which community councils establish and operate. Clackmannanshire Council approved the preparation of a new Scheme for the Establishment of Community Councils at its meeting in September 2020 and in so doing initiated a public consultation on the contents of the document.
- 3.2. The Council aims to keep the content of the Scheme as high level as possible, giving scope for community councils to change operational aspects of their practice through their other governing documents, such as their Standing Orders and their constitution. We also aim to ensure the Scheme empowers community councils to operate as independently as possible in a way which is most appropriate to the interests of their communities and the strengths of their members.
- 3.3. During the second 8-week consultation period, the public were invited to make suggestions on the contents of the Scheme.
- 3.4. Some constraints of community council governance emerged as community councils endeavoured to fulfil their function during the course of the pandemic, in particular the limitations of the election and co-option provisions. Due to difficulties created by low membership numbers, Council agreed at its meeting in September 2020 not to pursue suspension should the community councils co-opt new members in breach the Scheme. This was applicable to all

community councils and was in operation until the Council was able to run regular elections. A Regular Community Council Election process was completed on Friday 29th of October and, accordingly, this arrangement has expired.

- 3.5. In addition, in the time since the last review of Clackmannanshire's Scheme, the matters of community council complaints and conduct have been prominently on the national agenda. Clackmannanshire's community councils have not reported any difficulty in relation to processing complaints and responses to the most recent consultation do not indicate that any further action is required in this respect at this time. With regard to community councillor conduct, Clackmannanshire had been able to boast of no significant problems but through ongoing dialogue with community councils we know there is now strong appetite to make clear and specific provision for dealing with disruptive behaviour promptly and decisively.
- 3.6. The focus of Stage 2 of consultation was an online questionnaire. The public response was very low, although the responses submitted were relevant and useful. Clackmannanshire's eight active community councils have had the opportunity to contribute to the analysis of responses from the online questionnaire conclusions and recommendations. A summary is contained in Appendix II.
- 3.7. The key changes to the Scheme proposed at the start of Stage 2 are summarised in paragraph 4 of this report. There are no further changes to the draft revised Scheme, appended to this report as Appendix I, following the completion of Stage 2 consultation.

4.0 Revisions to the Scheme

Elections

- 4.1. Although community councils agree that in the interests of legitimacy and transparency, the use of co-options should be regulated, some report that it has become increasingly difficult to operate from one election to the next without recourse to co-option as a means of remaining legitimate. In recognition of this, proposed paragraph 7.4 of the revised Scheme is the only substantive change. In the event that the Council is not in a position to run scheduled regular elections or interim elections, it will give officers scope to make a decision on a case-by-case basis allowing co-option beyond the two-thirds ratio and/ or to places not filled at a regular election in community councils whose numbers are close to or below minimum.

Addition of digital communication options

- 4.2. Although the existing Scheme did not expressly prevent the use of digital communication, text has been added to confirm this is an option. This does not significantly change the principles of the Scheme.

5.0 Other revisions

- 5.1. Although it is rare that a community councillor disrupts the business of their own community council, the impact when it happens is significant. It is

therefore proposed that guidance for community councils on sanctioning a member for persistent behaviour which impedes community council business be added to the model Code of Conduct for community councils. Proposed text for this guidance is in Appendix III.

6.0 Next Steps

- 6.1. Subject to Council approval, the statutory consultation is complete. The indicative timeline is included as Appendix IV. The revised Scheme will be published on the Council's website and in consultation with community councils model documents and guidance will be amended to align with changes as relevant.

7.0 Resource Implications

7.1. Financial Details

- 7.2. The full financial implications of the recommendations are set out in the report. This includes a reference to full life cycle costs where appropriate. Yes

- 7.3. Finance have been consulted and have agreed the financial implications as set out in the report. Yes

7.4. Staffing

8.0 Exempt Reports

- 8.1. Is this report exempt? Yes ☐ (please detail the reasons for exemption below) No ☒

7.0 Declarations

The recommendations contained within this report support or implement our Corporate Priorities and Council Policies.

- (1) **Our Priorities** (Please double click on the check box ☒)

The area has a positive image and attracts people and businesses	<input type="checkbox"/>
Our communities are more cohesive and inclusive	X
People are better skilled, trained and ready for learning and employment	<input type="checkbox"/>
Our communities are safer	<input type="checkbox"/>
Vulnerable people and families are supported	<input type="checkbox"/>
Substance misuse and its effects are reduced	<input type="checkbox"/>
Health is improving and health inequalities are reducing	<input type="checkbox"/>
The environment is protected and enhanced for all	<input type="checkbox"/>
The Council is effective, efficient and recognised for excellence	X

(2) **Council Policies** (Please detail)

8.0 Equalities Impact

8.1 Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations?

Yes ☒ No ☐

9.0 Legality

9.1 It has been confirmed that in adopting the recommendations contained in this report, the Council is acting within its legal powers. Yes ☒

10.0 Appendices

10.1 Please list any appendices attached to this report. If there are no appendices, please state "none".

Appendix 1 draft proposed Scheme for the Establishment of Community Councils

Appendix 2 Summary of responses to stage 2 consultation

Appendix 3 proposed draft appendix to model code of conduct

Appendix 4 Indicative Review Timetable

11.0 Background Papers


11.1 Have you used other documents to compile your report? (All documents must be kept available by the author for public inspection for four years from the date of meeting at which the report is considered)

Yes ☐ (please list the documents below) No ☒

Author(s)

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Approved by

NAME	DESIGNATION	SIGNATURE
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SCHEME FOR THE ESTABLISHMENT OF COMMUNITY COUNCILS



**Clackmannanshire
Council**
www.clacks.gov.uk

Comhairle Siorrachd
Chlach Mhanann

1. Introduction

- 1.1. Community Councils were first established in Scotland following the Local Government (Scotland) Act 1973. Thereafter, the Local Government (Scotland) Act, 1994, which produced the current system of unitary local authorities and made provision for the continuation of community councils. Under the legislation, every local community in Scotland is entitled to petition their local authority to establish a community council in their area.
- 1.2. The Scheme is designed to enable the establishment of community councils across Clackmannanshire to provide a common minimum basic framework governing their creation and operation.

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: -
- 2.2. "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. Role of Community Councils

- 3.1. Community councils have a duty under statute to represent the views of their local community. Clackmannanshire Council recognises community councils as the voice of the community on matters which directly affect public services in their areas and as appropriate bodies to participate at all stages of Local Development Planning.
- 3.2. Community councils have a statutory right to be consulted on planning applications which affect their area.
- 3.3. Community councils are competent objectors for licensing applications.
- 3.4. It is the role of community councils to inform the community they represent of matters of public concern and enable and facilitate active community deliberation on key developments affecting their area.
- 3.5. Clackmannanshire Council also recognises the scope community councils have to promote the well-being of the communities they represent; foster community spirit, and safeguard and improve the amenities of the community council area, its buildings and its natural environment.

4. Boundaries and Membership

- 4.1. The boundaries for community council areas and names of the community council areas are as outlined below and shown in this map which annexes this Scheme.
- 4.2. There shall be minimum and maximum membership numbers of community councillors. Only members who were elected at a regular, or interim election count for minimum membership to operate. In addition, there shall be a minimum number of nominations required at a regular election and below which a community council may not establish. These are listed below.

Community Council	Membership maximum	Minimum membership to operate	Minimum nominations at a regular election	Population est
Alloa	16 members	8 members	9 nominations	14085
Alva	14 members	7 members	8 nominations	4824
Clackmannan	14 members	7 members	8 nominations	3716
Dollar	14 members	7 members	8 nominations	3084
Menstrie	14 members	7 members	8 nominations	2826
Muckhart	12 members	6 members	7 nominations	534
Sauchie & Fishcross	14 members	7 members	8 nominations	6425
Tillicoultry	14 members	7 members	8 nominations	5931
Coalsnaughton, & Devonside				
Tullibody, Cambus, & Glenochil	14 members	7 members	8 nominations	9345

5. Eligibility

- 5.1. To qualify for nomination and election to a community council, and membership, a candidate must:
- Reside in the community council area for which membership is sought and,
 - be aged 18 or over and included on the current electoral register for the Community Council Area, or
 - be aged 16 or over and included in the roll of 16-18 year olds held by the Returning Officer
 - Not be, or within the last 5 years have been, declared bankrupt, convicted of any offence of which the sentence was anything other than a fine
 - Not be a Clackmannanshire Council elected member, an MP, an MEP or an MSP.
 - Not to have been refused permission or had permission withdrawn if an employee of Clackmannanshire Council.

6. Establishment

- 6.1. Clackmannanshire Council will invite electors in an area where no community council exists to apply in writing to the Chief Executive for the establishment of a community council in their area.
- 6.2. Clackmannanshire Council will arrange an election where at least 20 electors, who in their own right would be eligible to stand for election to a community council, notify the

Chief Executive in writing within 21 days that they wish to see a community council established for their area. The method of election will be that of a regular election described in Paragraph 8.

- 6.3. If nominations are received for less than the minimum nomination number, no community council will be formed. Clackmannanshire Council will give a statement of reasons why a community council may not be formed in any area.
- 6.4. In areas where no community council is established, 20 electors may petition the Chief Executive at any time to hold an election to establish a community council. This will be subject to there being no more than two elections in a twelve month period in any one community council area.
- 6.5. Clackmannanshire Council will make reasonable arrangements to accommodate establishment of a new community council when a petition is made in the year a regular, National or Local election is scheduled.

7. Election

- 7.1. The method by which people become community councillors shall be open and transparent. Clackmannanshire Council will conduct community council elections to allow a community to establish a community council. Clackmannanshire Council is committed to exploring with community councils innovative approaches including the use of modern ICT to encourage greater involvement in community council elections and to enhance the democratic process.
- 7.2. Election to community councils takes place through three methods, described in Paragraph 8. They are:
 - Regular elections, every four years to fill all places on all community councils
 - Interim elections, in the event that a community council's membership falls below the minimum membership to operate, or when the community council fails to receive the minimum nominations at a regular election
 - Co-option, to be used to maintain membership numbers as soon as a vacancy arises
- 7.3. Regular and interim elections will be conducted by Clackmannanshire Council. Co-options will be conducted by community councils.
- 7.4. In the event of exceptional circumstances which prevent the Council from conducting community council elections within a reasonable timescale, the Council's Monitoring Officer will have the authority to make decisions which allow a community council to maintain its membership in order to be able to fulfil its statutory function.

8. Election Methods

Regular Elections and Interim Elections

- 8.1. The Returning Officer for community council elections carried out by Clackmannanshire Council will be the Chief Executive of Clackmannanshire Council. The Returning Officer may appoint such number of deputies as may be considered necessary for the proper discharge of the relevant functions.

Regular Elections

- 8.2. Regular elections are held every four years at a time to be determined by Clackmannanshire Council. Clackmannanshire Council will make reasonable arrangements to accommodate community council elections in a year National or Local Elections are scheduled.
- 8.3. Clackmannanshire Council shall set the schedule for regular elections. The first regular elections following the adoption of this Scheme are scheduled for September 2021.
- 8.4. Clackmannanshire Council may use digital methods to conduct community council elections where appropriate.

Regular Election Process

8.5. Step 1 Nominations

All places on all community councils are available. All serving Community councillors will stand down and will be eligible for re-election. For all serving community councillors, the term of office will end at midnight of the day prior to the scheduled polling day at the next regular election.

Clackmannanshire Council will advertise a Notice of Election by public notices in the area covered by the community council. This notice will invite residents of the area to put forward nominations for membership of the community council.

Nominations will be in the form decided by the Returning Officer and will be subscribed by one proposer and one seconder, both of whom must be eligible for election in their own right. Nominations require to be submitted with the candidate's consent. Self-nomination is not permitted.

Nominations for election to a community council must be received by the Returning Officer by the time specified.

8.6. Step 2 Election Process

Where nominations are received for between the nomination minimum and 100% of the places to be filled by election, those individuals will be declared elected unopposed and the Returning Officer will produce and display a notice to that effect in the local area.

Where at any election the number of nominations received exceeds the number of places to be filled, a ballot will be held.

8.7. Step 3 Ballot

When a ballot is held, community councils shall be elected on the Block Voting system. The ballot will be secret and will follow the process set by the Returning Officer.

8.8. Optional Step: Nomination deadline extension

Should the total number of candidates nominated be below the minimum nomination number as specified for the community council area, no community council will be established in that area at that time. However, Clackmannanshire Council may, at its discretion, extend the deadline and within 6 months of the closing date for the

registration of the first call for nominations issue a second call for nominations for a community council area failing to meet the minimum nomination requirement.

Interim Elections

- 8.9. In the event that a community council's membership falls below or is at risk of falling below the minimum membership to operate, it shall notify Clackmannanshire Council. Clackmannanshire Council will make reasonable arrangements for an interim election to be held to fill places left vacant at a regular or interim election and vacancies arising since a regular or interim election. Places filled at a regular, or previous interim election are not subject to interim elections, however, places filled by co-option are. An interim election within 6 months of a regular election will be at the discretion of Clackmannanshire Council.

Interim Elections Process

- 8.10. The process for an interim election is that of the nominations and ballot process in a regular election but nominations shall be invited only for the number of vacancies. There will be no second call for nominations. A community councillor elected at an interim election will hold office until the next regular elections.

Co-option

- 8.11. Should a place filled through an election become vacant, community councils shall take steps through a process of co-option to fill the vacancy to maintain membership numbers until the next election. A community council must not co-opt further members if, as a result, the number of co-opted members would exceed one third of the number of community councillors elected at a regular or interim election. Places not filled at a regular or interim election cannot be filled by co-option.
- 8.12. Co-opted members must meet the eligibility criteria set out in this Scheme. A co-opted member must be elected onto the community council by a two-thirds majority of the elected (regular 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 (whether regular or interim). Co-opted members do not count for minimum operating numbers.

Co-option Process

- 8.13. Community councils shall determine the process of co-option. Notice of any proposed co-option procedure is required to be intimated to all of that community council's members and publicly in the community council area at least 14 days prior to the meeting at which the matter will be decided.

9. Meetings

- 9.1. The Returning Officer will call the first meeting of the community council after its establishment and after regular elections. This meeting will take place within 4 weeks of the election or as soon thereafter as is practicable. The election of a chairperson for that meeting from amongst community councillors present must be the first item of business

at this meeting. Until a chairperson for that meeting is elected, the Returning Officer or a suitable deputy appointed in his/her place will chair the meeting.

- 9.2. Community councils shall determine the format of their meetings subject to meetings being open to the public, with the place, date, time, nature of the business to be conducted at the meeting and draft note of any decisions made at the previous meeting advertised in the community council area at least 7 days before the meeting. Community councils may use digital meeting methods where appropriate to their community.
- 9.3. Each community council will determine the frequency with which it meets subject to a minimum of 4 meetings held in public per year.
- 9.4. Each community council shall hold a meeting by the end of September of each regular election year and by the end of October in non-election years at which it will account for its activities in the previous year, present its annual accounts for approval and elect its office bearers.
- 9.5. Each community council will adopt and make available publicly Standing Orders which lay out the procedure and business for its meetings.

10. Constitution

- 10.1. Each community council is required within 2 months of establishment or as soon thereafter as is practicable to adopt a Constitution which adheres to the terms of this Scheme. The constitution must meet minimum standards of legitimacy, democracy, accountability and transparency relevant to the statutory function of community council and is required to be approved by Clackmannanshire Council prior to adoption by the community council.

11. Resourcing

- 11.1. Clackmannanshire Council will provide assistance to community councils to support their administrative needs. The details of this assistance and resourcing which the Council will from time to time determine will be set out in the Protocol which accompanies this Scheme.
- 11.2. Any financial assistance will be made available to community councils following receipt of bank account details and, in the case of established community councils, approval by the chief finance officer of independently examined annual accounts which the community council can demonstrate have been approved by the community council at a properly-convened meeting which is open to the public.

12. Dissolution and Suspension

Dissolution

- 12.1. Clackmannanshire Council will, upon request of the community in question and following due process as set out in the community council's own constitution, assist a community with the process of the dissolution of a community council.

Suspension

- 12.2. Clackmannanshire Council may move to consider a community council to be suspended where:
- It has demonstrated a major single breach or a series of breaches to the requirements set out in this Scheme or its adopted constitution and where said breach(es) have not been remedied after being brought to the community council's attention.
 - A majority of its members collectively or separately have been charged with an offence under the law
- 12.3. Should Clackmannanshire Council consider a community council to be suspended, it shall publish a public notice in the area giving reasons. Within 2 months of suspension of a community council (or as soon as is practicable) Clackmannanshire Council shall set in motion a process to establish if the community wish to dissolve the community council or take action to re-instate its status. The process will be set out in the public notice.
- 12.4. A community council which is considered by Clackmannanshire Council to be suspended will not receive further Council resources.

13. Exchange of Information

Procedures

- 13.1. Procedures for the exchange of information on matters of mutual interest will be negotiated, and updated to suit changes in working arrangements, between community councils and Clackmannanshire Council. They are set out in the community council Protocol which accompanies this Scheme.

Single Point of Contact

- 13.2. Each community council shall elect from among its members a Single Point of Contact for communication with Clackmannanshire Council and other public authorities, and provide the name and contact details of the Single Point of Contact to Clackmannanshire Council for wider publication to the public. The community council shall notify the Community Council Liaison Officer of any changes to the Single Point of Contact.
- 13.3. Each community council is required to have an electronic means of communication available for contact from the Council and for contact from the residents of its area.

Community Council Liaison Officer

- 13.4. Clackmannanshire Council will appoint a Liaison Officer who will have prime responsibility for ensuring that information exchange mechanisms between community councils and the Council are operational.

Guidance

- 13.5. Clackmannanshire Council will provide guidance where relevant to assist community councils to adhere to the terms of this Scheme.

Adopted: [Month] 2022

Review date : 2026

DRAFT

Theme	Council comment	Council proposal
<p>1 Any aspects of the Scheme which are unhelpful for residents who want a community council to represent them</p>		
<p>1a</p> <p>Limitation on co-option, this is very restrictive in a time when recruitment of councillors is difficult,</p>	<p><i>For most community councils for most of the time, the co-option ratio is not a limitation. However, this comment is accurate, when residents did not nominate enough people to the community council during a regular election, or when several community councillors leave within a short space of time, the cap on co-option is a barrier to recruitment.</i></p>	<p>New paragraph 7.4 (proposed at Stage 1) would allow scope to extend co-option in the event numbers drop and the Council is not in a position to run scheduled regular elections or interim elections</p>
<p>1b</p> <p>I do believe that the elections are important and fine as they stand. They must be seen to be transparent and impartial, again as they are. the process is there to be seen and followed.</p>	<p><i>General discussions with community councils themselves also back this comment up. Community councils continue to express a preference for the formal Council-administered election.</i></p>	<p>No change to current provision.</p>
<p>1c</p> <p>The criteria for eligibility is not complete, in my opinion. If a Community Councillor has failed in their duty to properly represent the community, has not followed the expected code of conduct, has been a disruptive influence within the CC to the extent that the remaining councillors feel they cannot work with them, or that individual has been excluded from the CC, they should not be able to stand for re-election. In such circumstances, the affected Community Council would be required to inform the Returning Officer, or such other authority as may be required, of the name of the individual, and their reasons for requesting the exclusion</p>	<p><i>Although we can understand why this would seem to be a logical course of action, we have two concerns about this suggestion.</i></p> <p><i>Firstly, it is possible that the entire membership of a community council could change following a regular election. This change to eligibility criteria would unnecessarily impose the experience and decision of an outgoing community council on the incoming community council..</i></p> <p><i>Secondly, natural justice suggests that the individual might be given another chance by the incoming community council before the previous decision would be invoked, especially if a significant amount of time has passed since the original decision to exclude. Both the individual and the incoming community council may prefer to re-assess the situation.</i></p>	<p>Write a specific process for suspension / for exclusion into Model Standing Orders, but don't make the Code of Conduct mandatory?</p>

2 How important is a code of conduct for community councillors

- | | | | |
|----|--|--|---------------------|
| 2a | It sets a baseline that is written down, agreed to and visible. | <i>We agree transparency and openness are important to community councils.</i> | |
| 2b | it ensures proper behaviour of individuals | <i>Whilst a code provides guidance on what constitutes proper behaviour, we are not sure that a code can in practice ensure such.</i> | |
| 2c | Unacceptable Conduct - Given what [area] has gone through and currently going through I do believe this issue has to be addressed as it would need to be addressed in line with any other business. There must be control / sanctions that can be put in place. I | <i>We accept that in the interests of the work of the community council and of all involved, unacceptable behaviour has to be dealt with effectively and promptly.</i> | As 1c above? |
| 2d | Community Councillors must be able to work with each other efficiently for the benefit of the community they serve. If elected Community Councillors do not follow the expected standards, they may bring the organisation into disrepute, or it may fail completely to represent the community. | <i>We agree. For these reasons, it is important that community councils can address conduct of one or more of their individual members which actively disrupts business.</i> | As 1c and 2c above? |

3 A code of conduct is not a priority because ...

- | | | | |
|----|---|--|---|
| 3a | These are volunteers who give up their time selflessly, who monitors the code, who imposes penalties should the code be broken by a member and what would those penalties be. | <i>This is a good point. There is an inherent problem because there is no governing body for community councils. On matters of conduct they are self-regulating and depend on their own community for approval or disapproval of their actions. Community councils themselves have not unanimously asked for a Code of Conduct to be made mandatory.</i> | Keep the Code of Conduct as a Model which community council may choose to adopt and adapt.? |
| 3b | | | |

4 I think a complaints procedure should be optional because ...

- | | | | |
|----|--|---|--|
| 4a | Once again these are volunteers, the imposition of such a procedure infringes on that status | <i>We agree that as a group of volunteers it does not seem appropriate to apply a procedure as if they provide a service. It is also problematic because the standards of that 'service' are whatever residents of the area say they are, so there is no gauge by which</i> | Keep the Complaints Procedure as a Model which community council may choose to adopt and adapt.? |
|----|--|---|--|

to measure it.

Community councils have so far been happy to have a model Complaints Procedure to be available but not mandatory.

5 I think a complaints procedure should be mandatory because ...

5a

It means any complaint is dealt with in a standard uniform way across the county. A council make up may change over time and how to deal with complaints could be lost as members leave and the rareness of a complaint

There is a model complaints procedure which fulfils this purpose. It was not made mandatory in recognition of the fact that residents not bureaucracy decide the make-up of each community council, so they are all different and we feel they should be free within reason to choose procedures which suit their make-up.

[As 4 above]

5b

Elected Community Councillors should be accountable for their decisions, and be required to justify them, within reason. If actions have been carried out for which they do not have legitimate reason, there should be a process which can be followed in order for the decisions to be reviewed and corrected, if necessary.

We believe the model complaints procedure already helps community councils follow a process. They can adapt it to suit their own ways of working. We feel it need not be mandatory to do this.

6 Suggestions and ideas to enhance community participation and representation

6a

I personally think CCs should be provided with a central Google Suite or MS Suite and domain so that all communication, document store etc can be managed uniformly and files shared with all members. As CCs aren't charities and fall outside non profits definitions they can't access free, modern essential IT services and have to cobble together services and share passwords and accounts, which is far from ideal. It's stops the loss of fidelity when members leave. Businesses can't survive using personal accounts CCs shouldn't either

Thank you for this suggestion. We will discuss it with all eight community councils. This sort of arrangement does not need to be written into the Scheme itself.

Raise with all 8 community councils and discuss the Joint Community Council Forum

6b

Perhaps more support for the groups would be appreciated, the current level is not particularly enticing for people to join.

The Council is aware that if we are too closely involved with a community council we might seem to be directing it towards one course of action or

Raise with all 8 community councils and discuss at the Joint Community Council Forum

another. We will discuss this comment with all 8 community councils to find out what nature of support there needs to be more of. A statement on the nature and level of support sits better in the Community Council Protocol (the document which describes the working relationship).

- 6d In my opinion the eligibility of a person to be a Community Councillor is not complete. If a person has not followed the code of conduct or failed to sign it, has been disruptive within the Community Council preventing the CC to act as effectively as it would wish to do so and to an extent that the remaining CCs feel they are unable to work with the person or the person has been suspended from the CC, they should not be regarded as suitable for re-election.
- If the above circumstances were the case, the Community Council would need to inform the Returning Officer of the name of the person and give their reasons for requesting exclusion.

[see comment for 1c above]

[see 1c above]

Appendix to Model Code of Conduct

Dealing with persistent breach of the code of conduct

1. Introduction

- 1.1. This guidance should be read in conjunction with the Code of Conduct. The code of conduct applies to behaviour both at community council meetings and in exchanges between people in the course of community council business between meetings.
- 1.2. In the event the behaviour of one or more of our community councillors / volunteers repeatedly behaves below the standard of behaviour we expect of our members or repeated disrupts community council business, the community council will take steps to address the conflict to ensure the community continues to operate smoothly.
- 1.3. In line with democratic principles for decision-making and conduct, we will deal with breaches of the code of conduct in as open and transparent a way as possible, bearing in mind any sensitivities and the interests of the public who attend our meetings.
- 1.4. Whilst all community council business may be conducted using existing decision-making processes and Standing Orders, due to the potential sensitivity of matters of individual conduct, this guidance has been drawn up to provide clarity to members of the public and of the community council alike on procedures for addressing, and on the community council's powers in this respect.
- 1.5. Responsibility for dealing with, and the final decision on, all breaches of the code of conduct lie solely with the community council.

2. Aims of this Guidance

- 2.1. To help the community council address fairly, honestly, consistently and appropriately matters of unacceptable conduct.
- 2.2. To ensure that the community council's ability to perform its function is not hampered by excessive demands on its time and energy created by matters of conduct.

3. Guiding Principles

- 3.1. Community councillors are volunteers and it is reasonable for them to expect their working environment, whether real or digital, to be a safe place.
- 3.2. Members of the public should also feel they are in a safe and respectful environment when attending community council meetings.

- 3.3. All members of the community council have the same right to equal and fair treatment.
- 3.4. All decisions relating to unacceptable behaviour will be made in an open and transparent way using explicitly-stated decision-making procedures.
- 3.5. The matter and all individuals involved will be treated with sensitivity and respect.
- 3.6. All individuals involved will be kept informed and given reasonable time to consider the information presented and respond.
- 3.7. We will deal with matters of conduct in a measured way and in proportion to the matter at hand.

4. When this guidance applies

- 4.1. This guidance is intended to be used when a simple form of redress has been attempted but has not been possible. It is also intended to address deliberate behaviour which is persistently in breach of the code of conduct or when it has not been possible to address an incident due to lack of co-operation of the party/parties involved.
- 4.2. This procedure does not apply to any matters which would normally be subject to the force of law.
- 4.3. If an incident of unacceptable conduct occurs at a community council meeting, Standing Orders will apply in order to address the behaviour at the time.

5. Conditions

- 5.1. A two thirds majority of current members is necessary to instigate the process and for all decisions relating to action to address unacceptable behaviour.
- 5.2. Any final decision on a formal sanction must be on the agenda of a meeting which is open to and advertised to the public. However, it is for the community council to decide if it is appropriate to raise the matter at an earlier stage at a community council meeting which is open to the public.
- 5.3. The community council must keep, and make available to all members, a record of all evidence and decisions, and a note of key points used to come to decisions.
- 5.4. A minimum of two meetings are required to start and end a process to address unacceptable conduct. There must be sufficient time in between all meetings for information to be shared and received and for any responses to be made. The timescales will be determined by the community council to suit the circumstances but will be based on the normal meeting cycle.
- 5.5. The dignity of the people involved will be respected and details which should be kept confidential must not appear in any minutes which are made public.

- 5.6. Decisions will state the length of time any sanctions will be in force with a review date, and/or other conditions under which they will be lifted. No sanction can be in force longer than the term of office.
- 5.7. The individual/s in question will be informed promptly of the decision, of the nature of the action the community council has agreed to take and any conditions, and of their right to appeal. The receipt of any appeal received following a decision to restrict contact and the subsequent decision will be reported to properly-convened meetings and recorded in the minutes.

6. Process stages

- 6.1. The community council will initiate action to address unacceptable conduct only after it is satisfied that there is reasonable evidence that conduct is unacceptable.
- 6.2. In the first instance, the community council will informally try to find the reason for the conduct in question, if there has been a misunderstanding or if it is likely to continue. If this does not rectify the situation, the cc may take more formal action.
- 6.3. The community council has the power to take an appropriate level of action. Sanctions are a last resort and will only be considered after a negotiated solution cannot be found. Formal action could take the form of

[to be inserted by the community council for example

- *Asking for a formal apology*
- *A warning*
- *Formal or informal mediation*
- *Temporary removal from meetings/business*
- *Temporary suspension*
- *Exclusion]*

7. Appealing a Sanction

- 7.1. As with the decision-making process, the community council will explicitly set out in writing the process by which a decision can be appealed. This will state timescales, channels of communication and options for recourse to advice and expertise.
- 7.2. The community council will make the final decision on whether the appeal is upheld or refused and on whether there should be any amendment to any conditions of the restriction arrangements. There is no further course of appeal.

DRAFT

Indicative Review Timetable

- 1.1. The steps involved in this process and proposed timescales are laid out in the Table below.

Date	Step
<i>September 2020:</i>	Council agrees to revoke existing Scheme.
<i>October 2020:</i>	Public notice of intention to revoke existing Scheme and statutory minimum 8-week public consultation inviting the public to make suggestions as to the areas and composition of the community councils.
<i>June 2021:</i>	<i>Council meeting considers the outcome of the consultation, recommendations arising from comments gathered during the public consultation and the contents of a draft new Scheme.</i>
<i>August 2021:</i>	<i>Public notice of second statutory minimum 8-week public consultation inviting the public to make representations on the aspects of governance of community councils and their relationship with Clackmannanshire Council which the Scheme details.</i>
<i>December 2021:</i>	Council consider any revised draft proposals on the contents of a proposed new Scheme. If there are none, Council may consider adopting a new Scheme.
<i>January 2022:</i>	If required, the public will have a 4-week period in which to make any final representations on the proposed document.
<i>April 2022:</i>	Council will consider any final representations and will formally adopt a new Scheme.
<i>April 2022:</i>	Public notice of the adopted Scheme and invitation for electors to apply for establishment in areas where no community council exists.

- 1.2. The eventual Scheme is timetabled for implementation in 2022.

