
Report to Clackmannanshire Council

Date: 29th September, 2011

Subject: Proposed New Scheme for the Establishment of Community Councils

Report by: Chief Executive

1.0 Purpose

- 1.1 The purpose of this report is for Council to consider the outcome of the second consultation exercise 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) to go forward to the next stage of statutory consultation.

3.0 Background

- 3.1 Clackmannanshire Council has a statutory duty to draw up a Scheme for the Establishment of Community Councils to ensure that community councils have a framework within which to exist and operate.
- 3.2 At its meeting in June, 2011, the Council agreed to take a draft Scheme forward to the second phase of statutory consultation in accordance with Section 22 of the Local Government Scotland Act 1994.
- 3.3 Over the course of the two eight-week consultation periods since March 2011, the public have been invited to make suggestions on the boundaries and composition of community councils, as well as on the wider contents of a revised Scheme
- 3.4 In the eight week consultation period which has just ended, comments were invited via written feedback and there were four open meetings and six drop-in sessions. The comments which were received are summarised in Appendix 2 to this report.
- 3.5 There was general agreement with the document and the following may be worthy of particularly highlighting to elected members:

- Frequency of elections - currently elections are held every two years, with half the membership standing down at each election. The proposal in the draft Scheme is that elections should instead be held every four years. A sense coming through from the public consultation was that elections for community councils could be off-putting and could bring in an association with party politics which was generally not welcomed. That being the case, it would suggest that reducing the frequency of elections to once every four years, as opposed to having them every two years, would meet with greater public favour. Also, as mentioned in earlier reports to Council on the matter, having elections once every four years is more efficient and cost-effective. Accordingly, despite existing community councils' preference to continue with elections by half every two years, the attached final draft Scheme retains the proposal to hold elections every four years. (Paragraph 7.1 of draft Scheme appended.)
- Mini elections - this proposal came from existing community councils as an option to fill casual vacancies in addition to the existing co-option mechanism. The thinking behind this was that the mini election option would enhance the openness and transparency with which community councillors are chosen in between regular elections. Feedback from the public, however, has not been particularly positive, with a lack of confidence being expressed about the mini election process. Instead it was suggested that a more publicly advertised co-option process would be preferable. Given this feedback, and taking into account the antipathy expressed more generally about elections, the mini-election proposal has been removed from the draft Scheme appended.

5.0 Next Steps In The Process

- 5.1 There is an extensive statutory consultation process to prepare a new Scheme for the Establishment of Community Councils (see table below). Five of the nine steps in this process have been completed and the sixth will be complete following the Council meeting on the 29th of September, 2011.
- 5.2 Once the next consultation period of four weeks on the proposed new Scheme is concluded, a report will be prepared for Council in December which will advise members of any final representations on the new Scheme and any suggested final amendments.

Step	Action	Timescale	Progress
1	As part of a report on the current scheme, Council to consider a recommendation to revoke the existing scheme and make a new scheme for the establishment of community councils.	March 10	Complete
2	Council gives public notice of intention to revoke existing Scheme and a statutory 8-week public consultation inviting the public to make suggestions as to the areas and composition of the community councils.	March 16	Complete
3	8 week consultation period	March 16 - May 4	Complete
4	Council considers a report on the outcome of the consultation exercise on the composition of the community councils and additionally, the contents of a	June 30	Complete

	proposed new Scheme.		
5	Upon approval of the report, a second Public Notice is published giving notice of an 8-week consultation period for any representations to be made on the provisions of the proposed new Scheme.	July 6 - 31 August	Complete
6	Council considers a report on the contents of a proposed new Scheme and its adoption.	September 29	
7	Upon approval of the report, a third Public Notice is published giving notice of a 4-week consultation period for any final representations to be made on the draft Scheme.	October 5 - Nov 2	
8	A Council meeting considers final representations and agrees the new establishment process for community councils under its new arrangements.	15 December	
9	A fourth Public Notice is published intimating the publication of the Scheme in its adopted form and an invitation to electors in areas where there may be no community council to apply for the establishment of a community council in that area.	December 21	

7.0 Sustainability Implications

7.1 N/A

8.0 Resource Implications

8.1 *Financial Details*

8.2 There are no financial implications directly from this report.

8.3 *Staffing*

8.4 There are no staffing implications directly from this report.

9.0 Exempt Reports

9.1 Is this report exempt? Yes ☐ (please detail the reasons for exemption below) No **X**

10.0 Declarations

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

(1) **Our Priorities 2008 - 2011** (Please tick ☒)

- The area has a positive image and attracts people and businesses ☐
- Our communities are more cohesive and inclusive ☐
- People are better skilled, trained and ready for learning and employment ☐
- Our communities are safer ☐
- Vulnerable people and families are supported ☐
- Substance misuse and its effects are reduced ☐
- Health is improving and health inequalities are reducing ☐
- The environment is protected and enhanced for all ☐

The Council is effective, efficient and recognised for excellence

X

(2) Council Policies (Please detail)

11.0 Equalities Impact

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

12.0 Legality

12.1 In adopting the recommendations contained in this report, the Council is acting within its legal powers. YES

13.0 Appendices

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

1 - Draft Scheme for the Establishment of Community Councils

2 - Summary of Comments Received on Draft Scheme

14.0 Background Papers

14.1 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)

Clackmannanshire Scheme for the Establishment of Community Councils

Author(s)

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Lesley Baillie	Community Planning Policy Officer	452012

Approved by

NAME	DESIGNATION	SIGNATURE
Elaine McPherson	Chief Executive	Elaine McPherson (signed)

SCHEME FOR THE ESTABLISHMENT OF COMMUNITY COUNCILS

CLACKMANNANSHIRE COUNCIL

1. Introduction

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, made provision for the continuation of Community Councils. Under the legislation, every local community in Scotland is entitled to petition their local authority to establish a Community Council in their area.

The Scheme for Community Councils 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

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. Role of Community Councils

Community councils have a duty under statute to represent the views of their local community. Clackmannanshire Council recognises Community Councils as appropriate bodies to consult on matters of community interest.

Community Councils have a statutory right to be consulted on planning applications which affect their area.

Community Councils are competent objectors for licensing applications.

Community Councils also play an important role in:

- Promoting the well-being of the communities they represent.
- Fostering community spirit;
- Informing the communities they represent of matters of public concern, and

- Safeguarding and improving the amenities of the Community Council area, its buildings and its natural environment

4. Boundaries and Membership

The boundaries for Community Council areas, and names of the Community Council areas are as outlined below and shown in the Annex to this Scheme.

There shall be minimum and maximum membership numbers of elected Community Councillors in a Community Council. These are detailed in the Constitution.

Community Council	Membership	Population
Alloa	16 members	13297
Alva	14 members	4915
Clackmannan	14 members	4289
Dollar	14 members	3041
Fishcross & Sauchie	14 members	6546
Menstrie	14 members	2794
Muckhart	12 members	502
Tillicoultry Coalsnaughton, Devonside	14 members	5989
Tullibody, Cambus, Glenochil	14 members	9167

5. Eligibility

To qualify for nomination and election to a Community Council, a candidate must:

- Be aged 16 or over and included in the roll of 16-18 year olds held by the Returning Officer.
- Reside in the Community Council Area for which membership is sought and, if aged 18 or over, be included on the current electoral register for the Community Council Area.
- Not be subject to any legal incapacity (as defined in Section 31 of the Local Government (Scotland) Act 1973, as amended from time to time.
- Not be a Clackmannanshire Council elected member, an MP, an MEP or an MSP.
- Not have been refused permission or had permission withdrawn if an employee of Clackmannanshire Council.

6. Establishment

After the adoption of this Scheme, Clackmannanshire Council will invite electors to apply in writing to the Chief Executive for the establishment of a Community Council in their area.

An election will be held in areas 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.

If nominations are received for less than 50% of the possible number of elected members, 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.

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.

7. Methods of Election

Clackmannanshire Council is committed to exploring innovative election methods to encourage greater involvement in Community Council elections and to enhance the democratic process.

Clackmannanshire Council will, therefore, explore, in consultation with Community Councils, the possible use of alternative election methods for regular elections.

i) Regular Elections

Regular elections are held every four years and are arranged by Clackmannanshire Council.

For regular elections, the following method will be used:

Nominations

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.

Election Process

Where nominations are received for between 50% 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 Community Council places available, a ballot will be held.

Ballot

When a ballot is held, Community councils shall be elected on a simple majority basis. The ballot will be secret and will follow the process set by the Returning Officer.

Second Call for nominations

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, Clackmannanshire Council may, 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 membership requirement.

Places not filled at Regular Elections

At least half of the total number of members must initially be elected in regular elections. Places not filled at regular elections cannot be filled by co-option but may be at the next regular elections.

ii) Interim Elections

If the number of elected Community Councillors on a Community Council falls below half the maximum permitted membership, the Community Council must notify the Returning Officer who will make arrangement for an Interim election to be held. The method for an Interim Election is that of a Regular Election. A Community Councillor elected at an Interim Election will hold office until the next Regular Elections.

8. Filling of casual places/vacancies between elections

Casual vacancies on a Community Council may arise in the following circumstances:

- When an elected Community Councillor 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 under the terms of Paragraph 5 of the Constitution.
- On the death or legal incapacity of an elected member of the Community Council
- When places remain unfilled after a regular election

Should a vacancy or vacancies arise on a Community Council between elections, the Community Council shall undertake appropriate arrangements to fill the vacancy/vacancies, in consultation with Clackmannanshire Council. Filling a vacancy can be undertaken by co-option, as set out in Paragraph 9 of the Scheme.

9. Co-option to Community Councils

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 (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 (whether general or interim). Notice of any proposed co-option procedure is required to be intimated to all of that Community Council's members at least 14 days prior to the meeting when the matter will be decided.

The number of co-opted members may not exceed ONE THIRD of the current elected (general and interim) Community Council membership. Should the ratio of co-opted to elected Community Councillors become greater than one third, an interim election process is triggered.

A Community Council must not co-opt further members if, as a result, the number of co-opted members would exceed the maximum number permitted under the Scheme.

10. Regular Election Periods

The first elections after the adoption of this Scheme will take place in September 2012. Subsequent elections will take place every four years at a time to be determined by Clackmannanshire Council. All serving Community Councillors will stand down and will be eligible for re-election.

11. Returning Officer

The Returning Officer for Community Council elections 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.

12. Term of Office

The term of every member elected at a regular election shall extend to 4 years.

For all Community Councillors, the term of office will end at midnight of the day prior to the scheduled polling day at the next regular election.

13. Disqualification

Members of Community Councils will become ineligible to hold office where they have:

- moved out of the area covered by the Community Council (unless they have less than six months of their office outstanding)
- failed to attend 3 consecutive meetings for reasons unacceptable to members of the Community Council.
- been elected as an MP, MEP, MSP or elected member of Clackmannanshire Council or of any other local authority

Where this occurs the Community Council may apply in writing to the Returning Officer for that place to be declared vacant.

A Community Council may co-opt an individual into that vacancy. All members co-opted in this way must meet the qualification criteria for nomination at a regular election. Members co-opted in this way will hold office until the next regular election.

14. Dissolution

Notwithstanding the terms for dissolution of a Community Council contained in the constitution, Clackmannanshire Council may in its sole discretion seek to have a Community Council dissolved where:

- It does not meet for a period of six months;
- A request for dissolution, which has previously been passed at a public meeting of the Community Council in accordance with its constitution, is received from a Community Council;

- Following any regular election, less than 50% of the total complement of places are filled by direct election.
- It has demonstrated a major single breach or a series of breaches to its adopted constitution or to the requirements set out in this Scheme and where said breach(es) have not been remedied after being brought to the community council's attention.

15. First Meetings of Community Councils

The Returning Officer, or officer nominated by the Returning Officer, will call the first meeting of the Community Council after its establishment. This meeting will take place within 4 weeks of the election. The election of the Chairperson must be the first item of business at this meeting. Until the Chairperson is elected, the Returning Officer or a deputy appointed in his/her place will chair the meeting.

16. Meetings of Community Councils

Community Councils will determine the frequency with which they meet subject to a minimum of one annual general meeting and 4 ordinary meetings per year. Community Council meetings will be held in public, with the place, date, time, agenda and minutes of the previous meeting advertised in the local area at least 7 days before the meeting.

All Community Councils will hold an annual general meeting by September of each year at which it will account for its activities in the previous year, present its audited accounts and elect its office bearers.

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

17. Constitution

Each Community Council is required to adopt a Constitution based upon the terms of the Council's model constitution for Community Councils. The Community Council's Constitution is required to be approved by Clackmannanshire Council.

18. Resourcing

Clackmannanshire Council will provide assistance to Community Councils to support their administrative needs. This assistance will be provided on the basis set out in the Protocol. Any financial assistance will be made available to Community Councils following approval of the annual accounts by the Director of Finance and Corporate Services.

Each Community Council will open a bank or building society account for the receipt of grant funding and payment. Each Community Council will be responsible for maintaining proper accounts which will be independently examined annually by a person or persons approved by the Director of Finance and Corporate Services. Annual accounts will be presented as an item of business at the Annual General Meeting and will be made available for publication. Further details on resourcing arrangements are included in the Protocol which accompanies this Scheme.

19. Community Council Liaison Officer

Clackmannanshire Council will appoint a Liaison Officer who will have prime responsibility for monitoring the working relationship between Community Councils and the Council and ensuring that consultation mechanisms are operational.

Further details on the exchange of information between Community Councils and Clackmannanshire Council is contained in the Protocol which accompanies this Scheme.

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APPENDIX 2 - COMMENTS RECEIVED ON CONTENTS OF SCHEME & OFFICER RESPONSE

	Public Feedback (summary)	Council response	Action
Boundaries/ size	No objections to proposed boundaries, and significant support for proposed mergers. Feedback indicates interest in allowing people who can't currently, but who want to, represent their area and for each community council area to be big enough to accommodate community diversity as long as mergers ensure fair spread of representation.	<i>The opinion on advantages of proposed boundary changes is noted. The need for fair representation would be impressed upon and the responsibility of the eventual community council.</i>	Proceed with proposed boundaries in the new Scheme
	Acceptance that the Alloa area is too big but that it is difficult to know where to draw boundary. Can there be one area but with two community councils to give people options of which they attend?	<i>Agreed. The first stage of consultation suggested there is no clear way to divide the Alloa area. Under the Act which created them, a community council must have a defined boundary, so this solution is not possible.</i>	
	Consensus that the name of the community council should reflect the community, not necessarily the town. There was a suggestion to name the merged Alloa community council 'Alloa Burgh Community Council'.	<i>Agreed. Feedback shows support for a name which reflects the identifiable areas within the boundary. The proposed name does refer to the town but the old Alloa Burgh covers a smaller area than the proposed Alloa Community Council area. So this name may not truly reflect the community it represents either.</i>	Proceed with community council names in the new Scheme
	Suggestion that all councils should be the same size eg 15, regardless of population as this is easier to control.	<i>It is important that the community council is of a size which is able accurately to represent the population. This is more important than uniformity, which is not an administrative need .</i>	Proceed with sizes in the proposed Scheme.
Eligibility	No objections to eligibility proposal and strong support for eligibility which ensures that community councils do	<i>Feedback showing that the eligibility categories are</i>	Amend wording of fifth eligibility

	<p>not have a party political identity.</p> <p>Suggestion that Council staff should be presumed eligible unless prevented by reason or their post.</p> <p>Public priority is that the people who represent them have a solid basis for doing so.</p>	<p><i>clear and popular is noted.</i></p> <p><i>Accepted. Current wording incorrectly implies that Council staff are automatically ineligible to become community councillors in their own communities.</i></p>	<p>criterion & proceed with proposed eligibility criteria in new Scheme</p>
Mini elections	<p>The balance of feedback was against this proposal.</p> <p>Co-option is seen as acceptable and often necessary practice for recruiting members outwith an election. Furthermore, there were doubts about the democratic status of someone elected via a mini election and the quality of a mini election procedure.</p> <p>It is important only that councils let the public know about changes in membership.</p>	<p><i>Feedback from the public has indicated that the mini election proposal may not have the confidence of the public which it specifically set out to gain.</i></p>	<p>Remove proposal on mini elections from content of Scheme.</p> <p>Address the need for enhanced publicity on co-options through the Protocol which accompanies the Scheme.</p>
Election format	<p>There was feedback both in support of this proposal and against it.</p> <p>The Regular Election format (i.e. once every four years) is seen as easier to understand and easier to publicise than the existing method (every two years half of members stand down). Whilst continuity makes business easier for serving community councillors, from the public's point-of-view the ability of a community councillor to maintain continuity of membership is not always desirable.</p> <p>The existing format is seen as an aid to continuity of business and of office-bearers and to the exchange of experience between serving and new members.</p> <p>Suggestions for a 3 year term of office and for a 5 year</p>	<p><i>Community council elections are the means by which the public elect, re-elect and de-select the people who represent them. We do not connect the efficiency and effectiveness of a community council with election format.</i></p> <p><i>Records show that the public tend to re-elect community councillors who stand for re-election. There is nothing inherent in the new format which would prevent the public from re-electing their preferred choice. The existing format for elections does not in itself guarantee transfer of experience between new and longer-serving members. Therefore the argument that business might be suspended unless serving community councillors can guarantee their</i></p>	<p>Proceed with proposed election format in new Scheme.</p> <p>Incorporate measures to acknowledge of continuity of community council business into</p> <p>a) Community Councillor Induction Programme for new community councillors and</p>

	<p>term of office.</p> <p>Feedback shows that public concerns are by and large not for election format but that people are not willing to come forward.</p>	<i>position is not accepted.</i>	b) Guidelines on Community Engagement for Service Managers.
ROLE	There was a body of opinion that Council Services & Elected Members do not always respect the role of community councils, and frustration that the role of the community council does not extend to having power over the Council.	<i>The concern about the nature of the working relationship between the Clackmannanshire Council and community councils is noted. The roles, remits and powers of community councils and local authorities are set out in statute.</i>	Address communication and consultation mechanism through the Joint Community Council Forum and the Protocol.
ESTABLISHMENT:	<p>Opinion that the minimum number for establishment may be set too high in light of the number of people who have time to become a community councillor.</p> <p>Concern also that there is a balance between facilitating local democracy and being economical with public funds by reducing from two to one the number of attempts at establishment the people in any one area may have in a twelve month period.</p>	<i>The Scheme aims to make it possible for community councils to exist but the minimum number is set in recognition of the fact that the minimum number of community councillors who must be present before a community council can take decisions on behalf of the whole community is potentially half that number again. It is important that the public can be confident that they are being represented by a body with not too narrow a perspective of community needs and interests. So the suggestion to reduce the minimum number required for establishment is not accepted.</i>	Retain existing proposals
FILLING CASUAL VACANCIES	There was a comment that the proposed Scheme gives too much power to the Local Authority on matters the community council has the ability to manage.	<i>The objection refers to using the mini election process to fill a casual vacancy. As the proposal for this option is being withdrawn, there is no role for Clackmannanshire Council in the process.</i>	Adjust paragraph 8 to reflect the removal of the mini election option.
RETURNING OFFICER:	There was a comment objecting to the role of the Local Authority in community council elections and on the grounds that this impacts on the independent status of community councils.	<i>Noted. It is felt that the involvement of the Council's Elections Team reinforces the independence and consistency of community council elections rather than undermine the autonomy of community councils. It is</i>	Proceed with proposed content of Paragraph 11

		<p><i>good use of human and financial resources to have all community council elections administered by the same body.</i></p> <p><i>Community councils may after initial establishment choose to administer their own elections so if the public indicates a preference for this, Clackmannanshire Council will consider it at the next review.</i></p>	
FIRST MEETINGS	Suggestion that any member of the Local Authority should be able to act as Chairperson when electing office bearers	<i>Accepted. The person who chairs the first meeting until office-bearers are elected does not have to be the Returning Officer.</i>	Amend Paragraph 15
DISSOLUTION & CONSTITUTION:	There was an objection to content which appears to suggest undue control over community councils by the Local Authority with regard to dissolution and amendments to their constitution.	<p><i>As a body set up by statute, community councils must conform to the role laid out in the Act which created them. It is the Local Authority's job to oversee this in the interests of the community. Clackmannanshire's community councils have adopted a constitution which ensures this happens. Altering the community council's stated role or governance in the constitution would mean it may no longer meet the definition of a community council and therefore would disqualify itself from articulating the voice of the people who elected it.</i></p> <p><i>The community council constitution will protect the community council from dis-establishment by Clackmannanshire Council without notice.</i></p>	Proceed with proposed content of Paragraph 14
MEETINGS:	<p>Partial objection to the requirement to make community council business public. Announcing the time and place of meetings in the local press is sufficient.</p> <p>Suggestion that continuity of office-bearers beyond one year of office be allowed.</p>	<p><i>Using the local press to advertise meetings and office-bearers holding office for more than one year are both allowed under the current Scheme.</i></p> <p><i>The comment on not making community council business public is not accepted: all community council business is carried out on behalf of the public so all</i></p>	Proceed with proposed content on Meetings

		<i>community council business is public</i>	
RESOURCING:	There was a suggestion that because auditing accounts costs money if there is a member of the local community who can do it for free, this should be allowed.	<i>This suggestion is allowed under the proposed Scheme.</i>	Proceed with proposed content on Resourcing

