

# Community Council FAQs

## Community Council Scheme

### *Development of the Scheme*

#### ***Did the Council follow the appropriate procedures and comply with the standards of Community engagement in relation to the development of the Scheme?***

The Highland Council complied with the Local Government (Scotland) Act, 1994, Section 22(2) which enables Local Authorities to revoke existing schemes for the establishment of Community Councils and make new Schemes. Using its powers under this Section and following the consultation process detailed in the previous paragraph Highland Council has revoked the eight previous Community Council Schemes operating in the Council area and has introduced a new Scheme which now applies throughout the Council area.

The legislation dictates that the Scheme must include details of various matters, including provisions relating to qualifications of electors, elections or other voting arrangements, composition of Community Councils, procedures for community council meetings and arrangements for finance.

The new Scheme adopted by Highland Council encompasses a suite of documents designed to support community councils in Highland. One of these documents is a standard constitution. A requirement has been imposed on all Community Councils in Highland to adopt the new constitution at the same time as they adopt the new Scheme.

#### **Does the new Community Council scheme need to be so prescriptive?**

The documentation is based upon the Scottish Government's Model Scheme. Other documents in the suite encompassed by the new Scheme are Model Standing Orders, a Code of Conduct for Community Councillors, a standard financial report and standard election documents. There are naturally differences from the model scheme in order to reflect local circumstances in Highland, and also as a result of public consultation. One of the fundamental purposes of revoking the previous eight Schemes was to introduce a pan-Highland framework under which Community Councils should operate consistently across the area.

#### **Why were Community Councils not involved in the Council's Working Group?**

The Highland Council was primarily consulting upon the development of a Scheme based upon the Scottish Government's national model. There was, therefore, already a National framework in place which was developed with Community Council representation and involvement. The role of the Council's Working Group was to ensure that the documentation was applicable for a Highland context, oversee the consultation process and assess the responses received. Community Councils, along with the public at large, had considerable opportunity to contribute to and be involved in this process through the three periods of consultation outlined above. In undertaking this consultation process, the Council has fully complied with the National Standards of Community Engagement.

## ***Sub-wards within a Community Council***

***For the purposes of elections and ensuring representation from across a Community Council area, can sub-wards be applied as in the past?***

No. If you are elected to a Community Council then you represent the whole area and not just part of it.

## ***Changes to the Scheme***

***A Community Council would like to make fundamental changes to their constitution which would also have to be applied to the Scheme. Is this possible?***

The Community Council Constitutions form part of the Community Council Scheme. The Council is committed to reviewing the Community Council Scheme in each electoral cycle. Proposed amendments to the Scheme should be referred to the Corporate Manager in order that they can be considered at the next review of the Scheme. It is not possible in terms of the Scheme adopted by Highland Council for individual Community Councils to make changes to the Scheme or any one of the suite of documents which make up the scheme, including the constitution without the consent of the Council (see paragraph 14.3 of the Scheme and paragraph 16 of the Constitution). It will be important for the Council to assess how any proposed new arrangements would work in practice before agreeing any amendments to any part of the Scheme.

## ***Boundary Amendments***

***Where do I go to amend boundaries?***

As a map showing community council boundaries forms part of the scheme, proposals to amend boundaries would be dealt with in the same way as proposals to amend any other part of the Community Council Scheme. If there is agreement for boundary amendments between Community Councils, these would require to be approved by Highland Council. Community Councils should contact their Named Highland Council Officer to discuss boundary changes. The Named Highland Council Officer would then refer the enquiry to the Council's GIS team who will arrange for the suggested changes to be put onto a map. This should then be confirmed with the affected CCs and the local Members.

## **Membership**

### ***Membership numbers***

***Community Councils are unhappy with a reduction in numbers because:***

- with smaller councils it may sometimes be difficult to find members with enough spare time to commit to being Officers***
- from previous experience they don't expect anyone to stand who will have more time than existing members***

The restriction on membership numbers applies to elected membership. If CCs have had difficulty in reaching the previous limit, then a reduction in that maximum should have only limited impact and in fact should be beneficial.

## ***Different levels for forming a Community Council and Co-option***

### ***Is it possible to form a Community Council with half of the total possible membership?***

It is appropriate that a Community Council should be able to operate if it attracts nominations for 50% of possible places. However, the total possible co-option was set at one third to avoid a scenario where co-opted members could make up half of all Community Council members. It was felt this would be inappropriate. The following scenario of a CC with a core membership of 8 illustrates:

- Section 5.1 states that the minimum (core) membership level should be 7.
- Section 6.2.4.1 states that should the number of candidates nominated equal or exceed half but less than or equal to the maximum they will be declared to be elected. For example if there is a maximum of 8 then you can have 4 elected members.
- Section 6.3 last bullet point says that co-opted members cannot exceed a third of the total possible membership. This means that we could only co-opt 2 members. This would only give us 6 members thereby not reaching the minimum membership level as defined in 1.

As outlined above a Community Council should be able to operate if it attracts nominations for 50% of possible places. The Community Council may however fill the vacancies either;

- a) through co-option provided the number of co-opted members does not exceed one third of the total permitted membership of the Community Council. **OR**
- b) by itself undertaking an interim postal ballot as per the standard election procedure set out in the Scheme.

## ***Office Bearers***

### ***Can a Community Council continue if no-one is willing to take on the role of office bearers?***

If nobody is prepared to oversee the running of the Community Council e.g. Chair meetings, take minutes, do the accounts, sign cheques etc, then it cannot operate and would need to go into abeyance. Paragraph 14.1 of the Scheme says that any two of three authorised signatories, who would normally be office-bearers of the Community Council, must authorise by signature financial transactions on behalf of the COMMUNITY COUNCIL. Paragraph 9 of the Scheme details the officers which must be appointed by Community Councils.

### ***The CC has indicated no-one is willing to take on the role of e.g. Secretary and want one person to hold two or three offices. Is this possible?***

See paragraph 9.3 of the Scheme. Without the express approval of The Highland Council, no one member shall hold more than one of the following offices at any one time: Chairperson, Secretary, Treasurer. It should be noted that Council approval for one member to hold two offices will be given only as a last resort where no other member is willing to take on the office. If another member should become willing to take up one of the offices then it would be expected that the member holding two offices would demit one office forthwith. It is important to point out that the restriction on the number of offices held is designed to protect individuals who hold the role of office bearer. We would hope that following the election in November there will be people willing to take on all three roles.

Joint Office Bearer roles - Lack of separation of duties depending on the financial and administrative procedures followed by the Community Council in question, there is a possibility that one person could be responsible for the collection, receipting and banking of all income and for incurring and authorising all expenditure for the Community Council. If this is the case there is a risk to the Community Council of funds being misappropriated.

It would normally be expected that cheques would be to be signed by two individuals, often from the main post holders such as Chair, Secretary and Treasurer. This would be problematic where roles are shared.

There is also a risk to the individual, who would be vulnerable to any accusation of financial impropriety if other members of the Community Council are not involved in the processes surrounding income and expenditure (e.g. collecting or receipting income, countersigning cheques/supporting documentation etc for expenditure).

Separation of duties is a key internal control and it is essential that this control is present in all systems.

## **Business Continuity**

The risk that the operation of the Community Council would be disrupted is clearly greater than if the positions referred to were held by three people. If the person was to become ill or leave the Community Council there may not be anyone with access to the documents and/or finances to enable the Community Council to continue to operate in the short-term. This risk would be heightened if the Chair/Secretary/Treasurer is the sole signatory for the Community Council's bank account.

## **Workload**

There is a risk that the workload of carrying out the duties for the three posts is too great for one person. This could result in the Community Council failing to meet deadlines for key correspondence (e.g. on planning or licensing applications), submission of annual accounts or notification of elections.

## **Influence**

There is a risk that the Community Council is perceived to be unduly influenced by the person holding the Chair/Secretary/Treasurer roles. This could result in less credibility being given to the views of the Community Council, and could also lead to members of the community feeling disengaged from the Community Council.

## ***Can a CC appoint additional office bearers and external minute secretary?***

The CC needs to elect three office bearers - a Chair, a secretary and a Treasurer. These three office bearers must be full members of a CC - i.e. they cannot be associate members. Community Councils may if they so desire appoint a Vice Chair or a Planning Secretary but these offices are not insisted upon by the Highland Council. Some CCs like to appoint an external individual to act as a minute secretary, and pay them to do so. The constitution enables this to be done but the CC must also appoint an office bearer Secretary from amongst its membership.

## ***Do office Bearers need to be full members of the CC?***

Clause 9 of the model Constitution provides that at its first meeting following the election the CC will elect a Chair, Secretary and Treasurer. The Scheme at Clause 5.5 allows for the appointment of associate members by a majority vote of the CC. The CC cannot

appoint an individual to be an associate member until after the appointment of the office holders. Strictly speaking the appointment of an associate can only take place where the CC consider 'there is a need for individuals with particular skills or knowledge' although this expression can be interpreted widely.

### ***Confusion over when office bearers should be appointed?***

The Scheme dictates that office bearers be elected at the first meeting after the election in the election year and in all other years at the AGM.

### ***Associate Members***

#### ***How does a CC appoint associate members?***

The appointment of associate members will be by simple majority of those eligible to vote and present and voting. The only exclusions to this are outlined at section 8.2 of the Community Council Constitution.

## **Community Council Meetings**

### ***Quorum***

***If a Community Council has 7 members but only three are present, could this prevent them from commenting upon a Planning application as a statutory consultee?***

Yes - the quorum is 4

***If a Community Council has 8 members but reforms with 4 and a member was to declare an interest would the CC then not be able to make a decision on a Planning application as a statutory consultee?***

No the quorum is 4 and one member declares an interest then there would only be three voting members which would make the meeting inquorate see paragraph 3 of the standing orders.

### ***Standing Orders***

***How can I take items of business that are not on the agenda?***

The intention within the Standing Orders is for any items not on the agenda to be taken as specified in 4.4(b) and then ratified at the next meeting. This is to ensure transparency and to ensure that fair notice of matters to be discussed is given to members and interested parties. However the Standing Orders would not prevent an item to be taken at the discretion of the Chair under AOCB.

## ***Distribution of Minutes***

***A Community Council is refusing to share the minutes of their meeting with a member of the public who resides in their area. Can they do this?***

Paragraph 3.2 of the Scheme, each Community Council has a duty to inform the Community it represents of the work and decisions of the Community Council by posting agendas and minutes of meetings in public places such as libraries, websites and noticeboards. The Community Council has a duty to be responsive to the Community it represents (paragraph 11.1(g) of the Constituions).

A member of the public should in the first instance raise this issue directly with the Community Council which should be given the opportunity to respond. Should this not achieve a satisfactory response then please address concerns to the Ward Manager for the area.

[https://www.highland.gov.uk/info/695/council\\_information\\_performance\\_and\\_statistics/394/ward\\_managers](https://www.highland.gov.uk/info/695/council_information_performance_and_statistics/394/ward_managers)

It should be noted that Community Council's are not bound by the Freedom of Information Act.

## **Community Council Elections**

### ***Nominations for Elections***

***Do Candidates need to be supported by 2 nominators/seconders?***

The nomination form (Appendix 7) requires that a Candidate can nominate his or her self. There is no requirement for supporting Nominators or Seconders although the signature of the candidate on the nomination Forum must be witnessed. This mirrors the requirements for Highland Council elections where self nomination is permitted.

### ***Election Costs***

***How much is it going to cost the CCs to hold elections?***

It was agreed at The Highland Council that election costs will be met from within the Highland Council Chief Executive's Service budget.

### ***Election Timetable***

***Do meetings continue through to the date of the election (16 Nov) or is there in affect a dissolution date?***

Meetings continue up until the day before the election. CCs dissolve from 12 midnight the day before election day.

***If a CC does not have enough nominations to have an election but has sufficient nominations i.e. over 5, does the CC carry on business as usual from 17th November, and not have to wait for the notification calling for the first meeting of the new CC as set out in the election timetable***

You will know on 6 October whether or not a CC has an election. If it has no election and has sufficient nominations the Ward Manager can arrange the first meeting of that CC as soon as possible after 16 November

## Finance

### ***Purpose of CC Grant***

***The Accounts Templates show an example of the whole of the HC Grant being devoted to admin items. In the past CCs spent modest sums on other items such as refreshments for residents attending meetings: will such expenditure continue to be allowable under the new Constitution?***

The Council support for Community Councils is intended to cover Community Council administrative costs and the example provided in the accounts templates illustrates this. However Community Councils have a general role to take such action in the interests of their community as they regard to be expedient and practicable. Accordingly, expenditure genuinely felt to be in the interests of the community is permissible.

***Why does it specify that the 3 people that sign the cheques and are trustees of the assets have to be 'office bearers' and not other members?***

Paragraph 14.1 of the Scheme says that any two of three authorised signatories, who would normally be office-bearers of the Community Council, must authorise by signature financial transactions on behalf of the COMMUNITY COUNCIL. Authorised signatories may not be members of the same household. This is one of the standard safeguards from the Scottish Government's model scheme and was often found in previous forms of constitutions. It is designed to ensure that all monies raised by or on behalf of a community council or provided by The Highland Council and other sources shall be applied to further the objectives of the Community Council and for no other purpose. The three offices of Chair, Secretary and Treasurer are standard, defined roles within a Community Council. When people take on these roles they are also taking on the responsibility of being cheque signatories and often Trustees.

***How can a Community Council which wishes to utilise electronic banking overcome the need for three signatories?***

All High Street Banks provide Treasurer Accounts with internet banking facilities with either 2 or 3 authorisations.

The Finance Service can provide details of the accounts to be credited and the remittance advice requirements. Community Councils should contact their own banks for details of how to set up such accounts always being mindful that they must adhere to the requirements set out in the Scheme for Establishment of Community Councils.

***In the past insurance was taken automatically from grants. Will this happen in the future? If so, does this mean that the amounts identified in the recent grants report will be minus the insurance amount when it is given to them?***

Yes, in the future insurance will be deducted as it was in the past. The amounts quoted in the paper are the gross grant amount as each CC has different insurance costs.

## **Payment of Grants**

### ***Can the annual grant be paid before a Community Council signs the new constitution?***

The Council cannot pay out a grant for the forthcoming year to a body that is not operating under the Council's Scheme and therefore would not be constituted. The same would apply for discretionary grants - A grant could not be awarded to a body that is not properly constituted under the terms of the Single Grant Process.

## **Community Council Ownership of Property**

### ***Can Community Councils own property?***

Because Community Councils are unincorporated bodies, they do not have a separate legal entity. Therefore any property, land or buildings, requires to be held in the names of the office bearers as trustees for the Community Councils. This is consistent with the position outlined in the Council's new Community Council Scheme and also the Scottish Government's model Scheme.

This is not a position the Council has any control over as it is regulated by law. To avoid property having to be held in the names of individual office bearers, a number of communities have explored the creation of community trusts or companies as an alternative. Community Councils wishing to explore this avenue of property ownership should take their own independent legal advice to ensure that they find the best method of ownership to suit their needs.

## **Shares**

### ***Can a Community Council hold shares for the sole purpose of awarding any dividend they earn annually as a prize? (This arose when someone left a CC a number of share certificates in their will with the instruction that the community council is to set up an annual prize scheme with which the community council is to award the sum of money earned to a deserving local child).***

Any Community Council receiving a bequest for a specific purpose should take the document making the bequest to a solicitor. In this instance it may be that a trust for a specific purpose is being created. Caution should be exercised as trust law is complicated, and any challenges in court to the actings of community councils may be expensive and are likely to be time consuming for the office bearers.

## **Other funding**

### ***Can a Community Council apply for lottery funding?***

As a constituted body the Community Council can apply for funding from a range of sources to benefit the community.



### **Complaints**

#### ***How does someone raise a complaint regarding an individual's behaviour in relation to the Code of Conduct?***

In the first instance, any complaint regarding a Community Council should be raised directly with the Community Council and they should be given the opportunity to respond. Should this not achieve a satisfactory response then please address concerns to the Ward Manager for the area:

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### **Policies**

#### ***With Highland Youth Voice engaging more with CCs and CCs reaching out more to local youth reps, should we expect CCs to operate to the same standards as voluntary organisations which are in receipt of Council financial assistance?***

Paragraph 3.2 of the Scheme imposes an obligation on individual Community Councils to adopt Highland Council's Child Protection Policy for Community Groups, where the Community Council intends to involve children in its activities.