

**WEST DUNBARTONSHIRE COUNCIL
SCHEME FOR THE ESTABLISHMENT
OF COMMUNITY COUNCILS**

**For approval of West Dunbartonshire Council
(at Special Council meeting 23 February 2022) for public consultation**

**This draft reflects the feedback from Stages 1 & 2 of the consultation process.
It is for information purposes only at this stage
as part of the Scheme Review process.**

**Stage 3 of the consultation will allow a final round of consultation and input
into the final version of the Scheme and appendices (including the Code of
Conduct and model Constitution and Standing Orders). This will include a
session with the Stronger Voices group to co-produce the Handbook that will
sit alongside the Scheme.**

**The final draft documents will then be presented to a further
Special Council Meeting on 25 May 2022.**

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1. Introduction

Community Councils are voluntary bodies which exist within a legal framework, based on Section 51 (2) of the Local Government (Scotland) Act 1973.

Under legislation, every local community in Scotland is entitled to request their local authority to establish a Community Council in their area. Although they complement the role of the local authority, they are not part of local government.

West Dunbartonshire Scheme for Establishment of Community Councils is designed to enable the development of effective Community Councils locally. It also seeks to ensure that they are able to make a representative contribution to the process of democratic empowerment and community participation in the areas they operate in and across West Dunbartonshire as whole. It will come into operation from June 2022 with Community Council elections being held as soon as practicable after this date. The Scheme will be reviewed before each new Community Council electoral term.

Contemporary duties for empowerment and engagement:

In addition to the original 1973 legislation, this Scheme also seeks to promote and support the role of Community Councils in implementing the wider legal framework for community engagement and empowerment in Scotland.

2. Statutory Purposes of Community Councils

Section 51 (2) of the Local Government (Scotland) Act 1973 states that “The purpose of a Community Council is to determine the aspirations and views of local people, organise these effectively to clearly represent opinions and present ideas for development and make proposals for improving people's lives. They have clear rights as legitimate community bodies to express these with local authorities and other public bodies providing services for its area and work for service improvement where appropriate.”

This involves finding out the views of the community which the Community Council represents, on matters which these authorities are responsible; and advocating for, or taking action in the interests of, that community wherever it is justifiable and practical.

Since Community Councils were created by virtue of the Local Government (Scotland) Act 1973, other statutory duties have been created for public bodies to engage with local communities. These seek to ensure that community views are heard by public bodies and influence how they meet community needs. The scope of these additional duties confers rights on communities in local areas and those sharing other common bonds of identity or because of protected equality characteristics.

Community Councils should be encouraged to use these additional statutory responsibilities to complement and enhance their original statutory powers, working with other community organisations to whom these more recent duties also apply.

This wider legal framework will be described in a Handbook for Community Councils in West Dunbartonshire. It will include information on the Community Empowerment Act and other legislation on specific services which require providers to engage communities in setting priorities and reviewing progress.

Since Community Councils have a specific role in relation to engaging with the statutory planning system, the provisions of the Planning (Scotland) Act 2019 have particular importance. They seek to involve communities more proactively and at an earlier stage in planning, with increased focus on sections of the community such as young people.

When taken together these legal provisions place duties on public bodies to respond to community views and proposals and involve them in decision making on a wide range of factors, including:

- How public assets are managed, disposed of or subject to greater community control.
- How greenspaces like allotments are managed.
- Setting the direction of local policy and the design of services across the Community Planning Partnership.
- Having rights to request participation in many aspects of service delivery by public bodies.

Although these rights are not exclusive to Community Councils, they are one of a number of types of groups recognised as legitimate bodies for community participation. They are also part of an evolving environment where policy is being developed on an ongoing basis, demonstrated by examples such as participation in health and social care organisations, and planning for children and young peoples' services or community justice issues.

These rights support the role of Community Councils to identify issues and improve their communities for local residents. This is in line with both the original legal purpose of Community Councils outlined above and the intention of the West Dunbartonshire Community Empowerment Strategy.

3. The Roles and Responsibilities of Community Councils

The general purpose of a Community Council is to act as a voice for its own local area. This involves articulating the views and concerns of local people in their area on a wide range of issues of public concern and make representations to its local authority, other public sector bodies and private agencies on matters within its sphere of interest.

It is essential that these views be demonstrated to be accurately representative of the community. Accordingly, each Community Council will have in place, in consultation with the local authority, recognised consultative mechanisms to validate their views and devise strategies to secure greater involvement by all sectors of the community.

Community Councils may carry out other activities that are in the general interests of the communities they represent, provided these activities fall within the objects of their Constitution and the terms of the Council's Scheme for the Establishment of Community Councils.

There needs to be a genuine commitment to collaboration and good working relationships with the local authority and other agencies. To allow Community Councils to meet their potential, there will be support and training available, facilitated by the Council's Communities Team. An annual skills audit will be carried out and a training programme developed in collaboration with Community Councils and the Community Councils Forum.

In carrying out their activities, Community Councils must at all times adhere to the law, the terms of the Council's Scheme for the Establishment of Community Councils and the Community Councillors' Code of Conduct (Appendix 1). The Scheme is informed by the West Dunbartonshire Community Empowerment Strategy (2019).

Each Community Council must adopt a Constitution and Standing Orders, based upon the Model Constitution (Appendix 2) and Model Standing Orders (Appendix 3) developed nationally and subsequently adapted locally for West Dunbartonshire. They serve to encourage consistency for Community Councils across West Dunbartonshire, and to ensure their proceedings are properly structured and regulated, that business is properly debated and that decisions are reached in a democratic manner. Each Community Council's Constitution must be approved by the Chief Officer for Housing and Employability of West Dunbartonshire Council.

Community Councils may carry out activities that are in line with:

- the general interests of the communities they represent
- their purpose
- the associated legal framework
- the Code of Conduct for Community Councillors
- the contents of this Scheme of Establishment, which should be agreed by the Council and Community Council Forum or other group representing Community Councils collectively.

This should include the types of activity indicated below:

- **Promotion of Community Councils:** To ensure that communities know about Community Councils, they should produce clear information about meetings in appropriate and accessible formats, including information on how people can influence the agenda.

The local authority should assist by posting agendas, reports and minutes of

meetings, subject to data protection requirements. These should be in hard copy posted in public places such as libraries and/or by electronic means (for example by email, on a website or via social media) with hard copies available on request.

Agendas for Community Council meetings should be sent to the local authority in advance of the meeting. Draft minutes of Community Council meetings must be presented to the local authority as soon as possible following the date of the meeting and be circulated to Community Council members and local elected members.

- **Representation:** Community Councils have a legal duty to represent the views of their community. They should reflect the broad spectrum of local opinion and interests as far as is practical, whilst also trying to ensure that those most seriously affected by proposals have their voices heard. Community Councils should be non-party political when expressing views and representing local residents.

Community Councils should make particular efforts to encourage young people and other under-represented groups to participate in Community Council business and to ensure equality of opportunity in the way the Community Council carries out its functions.

- **Right to be consulted by and have meaningful engagement with public sector and other agencies:** Community Councils have a statutory right to be consulted on planning applications, and should be consulted on issues such as licensing matters affecting the local community. Other matters may also be jointly agreed between Community Councils, the local authority and other public sector and private agencies. As legitimate community bodies, Community Councils increasingly also have rights to be engaged and involved in a wide range of other matters arising from duties in the Community Empowerment Act and other specific legislation. The Handbook that complements this Scheme will contain details of these opportunities and be updated as regularly as is practical.
- **Partnership working:** Community Councils and public bodies should aim to establish effective participatory working relationships. This includes the local authority, Community Planning Partners and other relevant organisations. All involved should work in a spirit of partnership in line with the West Dunbartonshire Empowerment Strategy and the framework provided by the Community Empowerment (Scotland) Act 2015. This could include setting up annual meetings to review progress or address issues through the Community Alliance or other groupings representing the community voice in Community Planning West Dunbartonshire.
- **Community engagement:** The Council will seek to work with Community Councils to develop their capacity to plan and deliver consultation with the community. This will enable Community Councils to gather, listen to and consider the views of local people. Methods may include Community Council meetings, public meetings, online meetings, social media, community surveys, comment or suggestion boxes or other legitimate and practical methods. The Council will support Community Councils to plan and deliver their engagement in line with the

National Standards for Community Engagement.

- **Community-led planning:** Community Councils will be encouraged to develop skills to lead or participate in community-led Locality Place Plans, Local Place Plans or action plans. These should be used as vehicles to understand community issues and aspirations and to inform future service planning and decision making, in line with the aspirations of the West Dunbartonshire Community Empowerment Strategy and the Community Empowerment Act. Guidance will be available in the Handbook for Community Councils.
- **Training:** A programme of training will be developed with Community Councils covering these and other topics. The design and delivery of the programme will be undertaken jointly with the Community Council Forum and the Council's Communities Team.
- **Flexible membership:** One way to assist Community Councils to broaden their representation and expertise is by promoting different categories of membership with the overall purpose of involving more local people and local organisations in ways that make participation easier.

Categories of membership are set out in section 6 (Membership). As a general principle the representative role of Community Councils is best served by the recruitment of a majority of members from those living within the boundary with an active interest in the community. However there are times where it can be useful to bring in views and experience from outwith the Community Council area, or from third sector organisations, for example to contribute to specific projects or issues. Such members may only vote if they are registered at an address in the Community Council area.

- **Information:** Community Councils must inform the local authority of any changes in membership (resignations, co-options etc.) and circumstances (such as changes in office bearers or status of the Community Council itself) as soon as is practicable, and complete an annual return on membership.

4. Equalities and diversity

It is important that Community Councils understand and comply with the Equality Act 2010, which requires them to take have 'due regard' in their operation to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

They must do this in terms of the "protected characteristics" identified in the Act,

which are: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; sexual orientation.

Everyone has 'protected characteristics', but it is the treatment that individuals and groups receive, the level of autonomy they have, and the positive or negative outcomes for them, which should be the focus.

Community Councils should therefore make particular effort to engage people with protected characteristics actively and sensitively, and encourage membership from a diverse range of people living in their areas.

Since everyone has the right to be treated fairly and have access to the work of the Community Council, meetings of the Community Council should take place in venues or online platforms which are accessible to all. This will involve using accessible venues and online platforms, meeting at times which suit people, offering a range of opportunities to participate, and using face to face or digital meeting methods which maximise the numbers and diversity of people taking part.

Community Councils individually and through the Community Councils Forum are encouraged to learn about equalities issues and how to combat inequality. This will be further explored in the Handbook.

The Equalities Forum in West Dunbartonshire has committed to assist Community Councils to ensure they are as accessible as possible and make use of local organisations such as the West Dunbartonshire Access Panel.

The West Dunbartonshire Forum of Community Councils will work with the Equalities Forum and Council officers to ensure that the Scheme of Establishment is subject to Equality Impact Assessment, and that Community Councils are supported to equality-proof their activities and ensure that all local people are entitled to be involved are able to do so despite any protected characteristics or other equalities issues they may have.

5. Community Council Areas within Local Authority Areas

The local authority has produced a list of named Community Council areas and maps that define their boundaries. A list of Community Councils is attached as Appendix **[to be added]** to the Scheme.

Any future changes to Community Council boundaries will be considered as part of future Reviews of this Scheme, and each review will include a consultation on boundaries. Any mid-term requests will be assessed based on whether these can be met outwith a full review of the Scheme process.

6. Membership of Community Councils

The overall aim of the membership process is to ensure that a Community Council,

primarily made up of local people, is able to represent the views and aspirations of its community with a clear mandate to do so on behalf of residents as a whole.

The formula which determines the minimum and maximum numbers permitted for each Community Council should be that all Community Councils will have a minimum number of seven elected Community Councillors, plus one Community Councillor for every 1,000 members of the overall population up to five thousand plus 1 Community Councillor thereafter for every additional 2,000 of the population.

In this way, a Community Council with a population of 7,000 would have 13 Community Councillors (7, plus 5, plus 1).

The minimum age to stand for election as a Community Councillor is 16 years.

There shall be provision made for different categories of members, all of which are currently available through legislation:

- **Full members** live in the area, are nominated for election, have full voting rights and serve a four year term.
- **Co-opted members** are individuals who are willing and eligible to serve but who were not nominated for election. Co-opted members may represent a local group or organisation, such as a Development Trust or local school pupils. Their number should not exceed one third of the total membership, and their co-option must be confirmed by two thirds of Full members. Co-opted members who are local residents have full voting rights.
- **Associate members** are people who are not eligible for full or co-opted membership of the Community Council (for example they are not resident in the area or are below 16 years of age), but who the Community Council considers they would help them to deliver their aims and purposes. They may bring a particular perspective, such as a young person, or have particular experience or expertise relevant to a local issue perhaps by virtue of being involved with another organisation. Associate members need not be local residents, nor do they have voting rights. They may serve for a fixed period as determined by the Community Council or for the term of office of the Community Council that has appointed them.
- **Ex-officio members** are politicians such as local authority Councillors, MSPs and MPs whose wards or constituencies fall wholly or partly within the geographical area of the Community Council area. They have no voting rights on the Community Council.

A more in-depth description of the roles and rights of Community Council membership categories will be included in the Handbook.

Qualification for full membership is normally by residency within the specific Community Council area, normally evidenced by being named on the electoral register for the Community Council area in which they reside.

Any full Community Council member who no longer resides within that Community Council area is deemed to have resigned from that Community Council six months after they have moved away from the area. The purpose of that six month period is to enable Community Councils to retain membership whilst they seek replacement candidates for co-option, particularly where the membership and viability of the Community Council may be affected.

Any individual who is elected to serve on this local authority, or the Scottish or UK parliaments shall be ineligible to remain a Community Councillor, or to stand for election to a Community Council. Such persons, upon taking office, become *ex-officio* members of the Community Councils contained in whole or in part of their electoral constituency, without voting rights.

A broad outline of the remit and responsibilities of each of these institutions is featured in the Model Scheme of Community Councils Guidance Notes prepared by the Scottish Government.

7. Replacement or updating of this Scheme

From time to time it will be necessary to review the Scheme as required by law. When the local authority revokes its existing Scheme for the Establishment of Community Councils to make a new Scheme, it will publish a Public Notice. This notice will invite the public to make suggestions as to the areas covered by Community Council boundaries, composition of Community Councils, and any other aspects of the Scheme. Following this, a consultation process will take place before the replacement Scheme's formal adoption by the local authority.

There may be times when the Scheme needs to be updated between formal reviews, for example in order to include new ways of working in emergencies like the COVID 19 pandemic (such as the introduction of online meetings) or because of changes to legislation or national policy and guidance.

For this reason, specific elements of the Scheme may be amended through consent of West Dunbartonshire Council and a majority vote of the West Dunbartonshire Community Councils Forum. Appropriate consultation will take place with Community Councils in advance of any such changes. More detailed information will be available in the Handbook.

8. Community Council Elections

All reasonable assistance should be given to Community Councils to promote and organise their elections using a wide variety of effective communication methods in to ensure that they are as representative of local views as possible. This section describes the processes for Community Council election nominations and, should they be required, polls.

Nominations and elections

The first elections to be held under the Scheme will be held on a date to be determined by West Dunbartonshire Council.

Subsequent elections will be held on a four-yearly-cycle, outwith local government election years, on dates to be determined by the Council and agreed by the Community Council Forum.

Where possible, when Community Councils' election cycle fall in the year of Scottish local government elections, the electoral proceedings will be held in the following year. There may however be exceptions where there are clear reasons to hold them in the same year.

West Dunbartonshire Council will administer all elections using the most suitable method of election.

Returning officer

The Council will appoint an Independent Returning Officer, who must not be a current elected member of the Community Council whose election (s)he is administering, nor intending to stand for election to that Community Council.

Nominations

Individuals seeking election to a Community Council require to be nominated by a proposer and seconder, both of whom must normally be on the Electoral Register for that Community Council area. Nominations must be submitted with the candidate's consent. Self-nomination is not permitted.

A nomination form should be completed, the style of which will be determined by the Council. Nomination forms require to be submitted on the date set down in the election timetable. No nomination forms submitted after that date will be accepted.

Process

On the expiry of the period for lodging nominations:

1. Should the number of candidates validly nominated equal or exceed **HALF**, but be less than or equal to the total maximum permitted membership as specified for the Community Council area in Appendix 4 **[to be added]**, those candidates will be declared to be elected and no ballot will be held.
2. Should the number of candidates validly nominated exceed the total maximum permitted membership as specified for the Community Council area, arrangements for a Poll will be implemented. At the Poll, each voter will be entitled to vote for candidates up to the number of vacancies on the Community Council.

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. Where that one half is not a round number, it shall be rounded down. However, that does not preclude the local authority from issuing a second call for nominations for a Community Council area failing to meet the minimum membership requirement within 6 months of the closing date for the registration of the first call for nominations.

Method of election

Elections will be based on whole local authority areas or devolved administrative areas, as deemed appropriate. Community Councillors will be elected on a simple majority basis.

Filling of casual places/vacancies between elections

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

- When an elected Community Council member submits her/his resignation;
- When an elected Community Council member ceases to be resident within that Community Council area; or
- When an elected Community Council member has her/his membership disqualified (Clause 9).

Should a vacancy or vacancies arise on a Community Council between elections, it will be a requirement that the Community Council undertake appropriate election arrangements, in consultation with West Dunbartonshire Council. Filling a vacancy can be undertaken either through the process of an interim election or by co-option. However, should circumstances arise that lead to the number of elected Community Councillors falling below **HALF** of the maximum permitted membership, the Council must be informed and it will undertake arrangements for an interim election to be held. (See Model Constitution in Appendix)

Co-option to Community Councils

Co-opted members must be eligible for membership of the Community Council as detailed in Section 6 above. They must be elected to the Community Council by a two-thirds majority of the elected (general and interim) Community Councillors present and voting. Such co-opted members will have full voting rights, and will serve until the next round of elections (general and interim). Notice of any proposed co-option procedure is required to be intimated to all of that Community Council's members at least 14 days prior to the meeting when the matter will be decided.

The number of co-opted members may not exceed a **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, due to any circumstances, an interim election process will be triggered.

9. Disqualification of Membership

Full or Associate membership of a Community Council is invalidated six months after a Community Councillor moves away from the Community Council area (see section 6 above for more information). That person may however be (re-)appointed as an Associate member by the Community Council.

If any member of a Community Council fails to attend any Community Council meeting, with or without submitting apologies, for a period of 6 months, the Community Council may terminate their membership.

At the discretion of individual Community Councils, a period of leave of absence for Community Council members may be granted at any meeting of the Community Council.

10. Meetings

The first meeting of a Community Council following its election will be called by the Independent Returning Officer approved by the local authority and will take place within 21 days of the date of the election, or as soon as practicable thereafter. The business of that meeting will include adoption of a Constitution and Standing Orders, appointment of office bearers and any outstanding business matters from the outgoing Community Council.

The frequency of meetings will be determined by each Community Council, subject to a minimum of one annual general meeting and 6 ordinary meetings each year. The annual general meeting will be held in a month of each year to be determined by the local authority/Community Council.

Meetings can be held either in person, digitally or a combination of both. The times and dates of meetings and methods used should be accessible to all; for example, meetings should be held at times which are suitable for the general public, and any digital platforms should be free and easy to access (see section 4 above).

The quorum for Community Council meetings will be one third of the current voting membership of a Community Council, or 3 voting members, whichever is the greater. Where a meeting does not meet these criteria, no decisions may be made without ratification at a subsequent quorate meeting, and the lack of quorum shall be noted in any note or minute of the meeting.

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

11. Liaison with the Local Authority and Community Planning Partners

Robust arrangements will be put in place for liaison between Community Councils and the local authority, in line with the ambitions of the West Dunbartonshire Community Empowerment Strategy. Community Councils have a key role to play in achieving the ambitions laid out in this strategy and representing communities across West Dunbartonshire.

This section contains a summary of what these arrangements will include. Further detail will be provided in the Handbook.

Communication

To support Community Councils to take on a role in community empowerment, there must be clear lines of communication between Community Councils and relevant local authority service areas and other Community Planning Partners. Contact information will be provided in the Handbook.

Where possible direct contact with appropriate officers is the preferred method. Where no response is received there will be a process to follow thereafter to ensure that Community Council needs for engagement are met. The West Dunbartonshire Council Communities Team can support with general enquiries and capacity building and organising training for Community Councils.

Participation in allocation of resources

West Dunbartonshire Council has made a strategic and operational commitment to increase the community role in influencing local decision making. Community Councils will be encouraged to participate and promote participation in a significant and meaningful manner. This includes in the delivery of the Community Empowerment Strategy and in initiatives to increase participation and local democracy, such as community budgeting and participatory budgeting.

Consultation

Local authority departments and Community Council Planning partners will encourage the participation of Community Councils in consultations as early as possible, and be supportive in encouraging consultation responses (for example, planning and licencing applications).

Community Councils Forum and influence in Community Planning

West Dunbartonshire's Community Councils come together and have a collective voice via the Community Councils Forum. This strengthens their influence with the Council and other Community Planning Partners and allows collaborative working to take place. It is a mechanism for Community Councils to voice shared issues and concerns and to influence how these are met, and also to act as a collective voice in bringing about change and shaping service delivery.

As well as directly representing Community Councils, the Community Councils Forum is represented on the Community Alliance, or any other agreed groups to represent the community voice in Community Planning West Dunbartonshire, including how Community Councils' collaboration can influence the development of Local Outcome Improvement and Locality Plans.

Further details of Community Councils' role and influence will be provided in the Handbook and will be updated as required. The roles of Community Councillors and elected members will also be laid out in the Handbook and the Community Councillors' Code of Conduct (see Appendix to this Scheme).

12. Resources

Community Councils are required to keep financial records and present financial reports at Community Council meetings and support will be given by the Council's Finance team to assist them to do so. The financial year of each Community Council should run from 1 April to 31 March in each succeeding year and be stated in the their Constitution.

The Handbook will contain more detailed information on finance processes. Each Community Council will be eligible to apply for grants for suitable projects and expenditure through the Community Council grant process and support will be provided with this process where required. Community Councils will also have the power to secure resources for schemes, projects and all other purposes consistent with their aims.

The Handbook was developed with input from the Community Councils Forum and as part of the wider consultation process to develop the Scheme and associated documents. These arrangements can be reviewed as required to ensure that they are fit for purpose and in response to any changes.

The Handbook will outline the process for examination of Community Council accounts and their annual submission to the Council's Finance team.

An example of a standard format for Community Councils' financial record-keeping is featured in the Scottish Government's Guidance Notes which will be reviewed from time to time.

West Dunbartonshire Council will provide a Community Council grant to assist with the operating costs of the Community Council. The grant will consist of a flat rate and an additional per capita allowance. The applicable amounts will be reviewed on an annual basis.

The Council will determine any additional support services/resourcing to suit local requirements. It will review the level of Community Council grant and other support to Community Councils following each local government electoral cycle.

13. Liability of Community Council Members

West Dunbartonshire Council will support Community Councils to ensure that they have adequate insurance provision in place. This will include working with the Community Councils Forum and the Council's Finance team to ensure that arrangements are in place for the yearly renewal process.

14. Dissolution of a Community Council

The arrangements for dissolving a Community Council are contained in the Model Constitution.

Should a Community Council fail to hold a meeting for a period of 3 consecutive prescribed meeting dates, or its membership falls below the prescribed minimum for a period of 3 consecutive prescribed meeting dates (during which time the Community Council and the local authority have taken action to address the situation), the local authority will work with that Community Council to establish the reasons and provide any support as appropriate (whether to continue with or to dissolve the Community Council).

Appendices

- *Code of Conduct for Community Councillors*
- *Model Constitution for Community Councillors*
- *Model Standing Orders*
- *Composition and boundaries of Community Councils [to be added]*