

# LOCAL GOVERNMENT ETC. (SCOTLAND) ACT 1994

## DUMFRIES & GALLOWAY COUNCIL

### SCHEME FOR THE ESTABLISHMENT OF COMMUNITY COUNCILS

Section		Page Numbers
1.0	Introduction	2
2.0	Purpose of Community Councils	2
3.0	Procedure for Establishment of Community Councils	3
4.0	Composition of Community Councils	3
5.0	Method of Co-option of Members	4
6.0	Casual Vacancies	4
7.0	Term of Office	4
8.0	Nomination of Candidates	5/6
9.0	Returning Officer	6
10.0	Voting Arrangements	6/7
11.0	General Provisions	7/8/9
12.0	Constitutions	9/10/11
13.0	Financial Provisions	11/12
14.0	Arrangements for Liaison and Exchange of Information between Dumfries and Galloway Council and Community Councils	12/13
15.0	Transitional Arrangements	13/14
16.0	Permitted Variations	14
17.0	Amendment of this Scheme	14

#### APPENDIX 1

Schedule 1:	Table showing official names of Community Councils, Estimated populations and maximum numbers of Elected Community Councillors	15/16
-------------	--	-------

#### APPENDIX 2

Schedule 2:	Notice of Election
Schedule 3:	Nomination Paper
Schedule 4:	Notice of Withdrawal of Nomination
Schedule 5:	Notice of Uncontested Election
Schedule 6a:	Notice of Non-Establishment of a Community Council
Schedule 6b:	Notice of Dissolution
Schedule 7:	Notice of Poll
Schedule 8:	Procedure for Ballot Box Election
Schedule 9:	Notice of Community Councillors Elected as Result of Poll
Schedule 10:	A Code of Conduct for Community Councillors
Schedule 11:	Standing Orders

## 1.0 **Introduction**

- 1.1 Dumfries and Galloway Council, as local authority for the administrative area of Dumfries and Galloway and acting in terms of Section 22 of the Local Government etc. (Scotland) Act 1994 hereby make this Scheme for the establishment of Community Councils within the Dumfries and Galloway local government area and revoke the Schemes made by the former Annandale & Eskdale, Nithsdale, Stewartry and Wigtown District Councils, with effect from Eighth October, Nineteen Hundred and Ninety Seven.
- 1.2 After having given public notice that they intended to prepare a Scheme for the Establishment of Community Councils and having considered the representations made to them by the public as the result of such notice Dumfries and Galloway Council have decided that the requirements for Community Councils in their administrative area can best be met by establishing Community Councils for the areas listed with their populations in Schedule 1 to this Scheme, and shown delineated on the maps (numbered 1-10) annexed and signed as relative hereto.

## 2.0 **Purpose of Community Councils**

- 2.1 Dumfries and Galloway Council acknowledges that Community Councils have undertaken and will continue to undertake a range of functions including the organisation of local events and social activities for groups in the community. Their main purposes, however, are:-
- a) to safeguard and promote the best interests of the community in their area;
  - b) to ascertain, co-ordinate and express to Dumfries and Galloway Council and to other public authorities the views of the communities which they represent in relation to matters for which those authorities are responsible, and to take such action in the interests of those communities as appears to them to be expedient and practicable.
- 2.2 The Council has noted developments in the role of Community Councils since they were first introduced under the Local Government (Scotland) Act 1973, particularly in the following areas:-
- Community Councils now have statutory powers in relation to planning applications and applications for liquor licences in Dumfries and Galloway and Dumfries and Galloway Council is required by law to consult Community Councils on its Decentralisation Scheme.
- 2.3 Dumfries and Galloway Council through its area committees seeks to improve links with Community Councils particularly in relation to such matters as disbursements from Common Good Funds and local charitable trusts.
- 2.4 This Scheme is designed to ensure that Community Councils are organised and can operate in ways which will enable them to undertake the enhanced role.
- 2.5 Community Councils shall be legally bound by the constitutions they adopt, which in terms of Paragraph 12.1 of this Scheme shall require to be ratified by Dumfries and Galloway Council.

### **3.0 Procedure for Establishment of Community Councils**

- 3.1 In the event of not less than twenty electors in any one of the areas listed in Schedule 1 to this Scheme making written application for the establishment of a Community Council for that area in accordance with this Scheme, Dumfries and Galloway Council shall, within six weeks from the date of receipt of the petition, invite nominations and thereafter, if necessary, organise an election for the establishment of a Community Council for that area.

### **4.0 Composition of Community Councils**

- 4.1 Community Councils shall be composed of:

- a) the number of voting Members specified for that Community Council as detailed in Schedule 1 hereto who have been elected or co-opted in the manner aftermentioned;
- b) the Dumfries and Galloway Councillor(s) for the area covered by the Community Council or part of it who shall have ex-officio membership of that Community Council during their period of office for the Authority but shall have no entitlement to vote, move motions or amendments or to hold office in the Community Council. No Member of Dumfries and Galloway Council may simultaneously be a Member of a Community Council other than in an ex-officio capacity; and
- c) may include co-opted members in the following circumstances:-
  - i. Community Councils may co-opt further Members with skills or knowledge which the Community Council consider would be of assistance to the Community Council in carrying out its functions. **Such co-opted Members shall not have voting rights, shall not be entitled to move motions or amendments, and shall not hold office, and may be under eighteen years of age. Community Councils shall consider the co-option of at least two persons under eighteen years of age.** Members co-opted for this purpose will serve for such time as may be determined by the Community Council at the time of their co-option or until the Community Council decide that their services are no longer required, and
  - ii. Community Councils may, where their elected membership does not comprise the maximum number of elected Members specified in Schedule 1 but is equal to or exceeds one half of that number or where casual vacancies arise during the interval between ordinary elections, co-opt persons who would be eligible for election to the Community Council as “full voting right” Members in order to make up that number. Members so co-opted shall serve until the next election to that Community Council with full voting rights.

- 4.2 In the event of the number of elected Members of a Community Council, in the interval between ordinary elections, reducing to less than one half of the number of elected Members specified for that Community Council in Schedule 1 hereto a by-election shall be held not later than two months after this reduction (unless the next ordinary election is to occur within the next six months); the number of vacancies to be filled at the by-election shall be the number by which the elected membership falls short of the number of elected Members specified in Schedule 1. All co-opted Members with voting rights who may have been appointed shall demit office at the date of the election but may be nominated for election.

## **5.0 Method of Co-option of Members**

- 5.1 A proposal to co-opt a person or persons to a Community Council under paragraph 4.1(c)ii hereof shall require a Notice of Motion to that effect to be included on the Agenda for the appropriate meeting of the Community Council, and such Notice of Motion shall include the name and address of the person proposed to be co-opted, together with that person's number on the current Register of Electors, and the names of the proposer and seconder who shall be voting Members of the Community Council unless the Community Council's constitution allows for the Notice of Motion to be proposed and seconded by individuals whose names have been entered in the Electoral Roll for the area covered by the Community Council and who need not be elected members of the Community Council.

## **6.0 Casual Vacancies**

- 6.1 A casual vacancy shall be deemed to arise in any of the following circumstances:-

- a) on the day when a Member ceases to be entered in the Register of Electors for the area covered by the Community Council;
- b) on the expiry of a period of six calendar months during which a Member of a Community Council has failed to attend a meeting of that Community Council, or of any Committee or other body constituted by such Community Council unless leave of absence has been granted or other reason accepted by that Community Council; or
- c) upon the receipt by a Community Council of a written notice of resignation from a Member.
- d) upon the death of a Member.

## **7.0 Term of Office**

- 7.1 The term of office of elected Members of a Community Council shall extend from one ordinary election to the next such election and they shall retire together at the end of such term on the day of the ordinary election of Community Councillors for that area but shall be entitled to submit themselves for re-election provided that they still meet the qualifications for election specified in Paragraph 8.1. Ordinary elections shall be held on the first Thursday in October every third year.

## **8.0 Nomination of Candidates**

- 8.1 A person seeking election to a Community Council must be aged 18 years or over and appear on the Register of Electors for that Community Council area at the date of being proposed for membership of the Community Council. Each candidate shall be nominated by two Proposers, both being persons whose names appear at that time in the said Register of Electors for the respective Community Council's area, or sub-division of that area, where applicable. The candidate nominated shall not be the Proposer of his or her candidature.
- 8.2 No person shall be entitled to nominate more than one candidate and if he or she does so his or her signature will be inoperative in any paper other than the first delivered to the Returning Officer.
- 8.3 When instructed to do so by Dumfries and Galloway Council in the case of initial elections, and by the Community Councils themselves following their establishment, the Returning Officer shall publish, through a newspaper circulating throughout the relevant Community Council area, a Notice of Election,

inviting nominations for membership of the relevant Community Council within 21 days of the date of the notice. The Notice of Election and Nomination Paper shall be in the forms set out in Schedules 2 and 3 respectively to this Scheme.

- 8.4 The Returning Officer's decision as to the validity of nominations shall be final. If the Returning Officer decides that any nomination is invalid he shall return it immediately to the candidate with the reasons for his decision written on the Nomination Paper.
- 8.5 Where the number of valid nominations, after any withdrawals, which shall be in the form set out in Schedule 4 to this Scheme, exceeds the number of voting Community Council Members specified in Schedule 1, a contested election shall be held in accordance with the procedure hereinafter prescribed.
- 8.6 Where the number of valid nominations, after any withdrawals, is equal to, or more than half, the number of voting Community Council Members specified in Schedule 1, the Returning Officer shall give public notice that the candidates validly nominated have been elected to the Community Council. The Notice of Uncontested Election shall be in the form set out in Schedule 5 to this Scheme.
- 8.7 **In any election where the number of valid nominations, after any withdrawals, is less than half the number of voting Community Council Members specified in Schedule 1, no Community Council will be established in the case of initial elections and the Returning Officer shall give public notice in the appropriate form set out in Schedule 6 to this Scheme that no Community Council shall be established at that time.** In such event no application or further application in terms of Paragraph 3.1 of this Scheme for the establishment of a Community Council for that area shall be considered until the expiry of a period of three months after the date of the public notice of the invitation to submit nominations. In the event of such an application being received after that period, the Returning Officer who shall be appointed for this purpose by Dumfries and Galloway Council, shall issue a further invitation to submit nominations in the form set out in Schedule 2 to this Scheme and the electoral process shall be repeated. **If after this second invitation, the number of valid nominations is still less than half the number of Community Council Members specified in Schedule 1 no further applications for the establishment of a Community Council for that area shall be considered until the expiry of a period of twelve months after the date of public notice of that second invitation.** These provisions shall also apply in the case of elections to an established Community Council with the effect that such a Community Council shall be disestablished from the date fixed for the election.
- 8.8 The Returning Officer shall display for not less than seven days immediately prior to the election, a Notice or Notices of Poll giving details of the election procedure to be employed, the names and addresses of candidates and the place, dates and times fixed for the conduct of the poll and the count. The Notice of Poll shall be in the form set out in Schedule 7 to this Scheme and shall be displayed on the Community Council notice board(s) and at any other designated public place(s) subject to any necessary consents.

Where the number of electors in the Community Council's area is 4,000 or more the Notice of Poll shall be published through a newspaper or newspapers

circulating throughout the Community Council area. In these circumstances there shall be no separate duty to display a Notice of Poll by other means.

- 8.9 If a candidate whose name has been included in a Notice of Uncontested Election or Notice of Poll dies before the declaration of the result of the election his candidature shall be regarded as if his nomination had been validly withdrawn.

## **9.0 Returning Officer**

- 9.1 The Returning Officer for the first election to a Community Council shall be a person appointed by Dumfries and Galloway Council and for all elections after the establishment of a Community Council shall be the person appointed by the Community Council concerned, subject to approval by Dumfries and Galloway Council. The Returning Officer for a Community Council election shall not be an elected member of that Community Council, a candidate in that election to that Community Council or a close relative of a candidate.

## **10.0 Voting Arrangements**

- 10.1 Persons included in the section(s) of the Register of Electors for the area applicable to a Community Council and who would be entitled to vote in a Local Government election at the date of the Community Council election shall be entitled to vote in Community Council elections for that area.
- 10.2 Voting in a Community Council election shall take place by way of a ballot box, at a designated polling place or places and shall conform with the procedures prescribed in Schedule 8 to this Scheme.
- There shall be no alternative of postal voting nor shall there be any provision for the issue of poll cards or voting by proxy.
- 10.3 The ballot papers to be used in Community Council elections shall be laid out in a style approved by Dumfries and Galloway Council.
- 10.4 Each eligible elector shall have available to him a number of votes equal to the aggregate number of seats being contested at that election, subject to the proviso that where a Community Council area is divided into sub-divisions, the number of votes available to each eligible elector shall either be as aforesaid or, if the Community Council constitution so determines, shall be equal to the number of seats being contested within the sub-division in which the eligible elector resides, and no elector shall cast more than one vote for any one candidate.
- 10.5 The hours of polling shall be determined for each Community Council area by the Returning Officer, taking account of local circumstances for the first election to a Community Council and during such period or periods between 8 am. and 8 pm. as the Community Council may determine thereafter. The number of vacant seats available shall be filled by the corresponding number of candidates receiving the highest number of votes. In the event of more than one candidate receiving the same number of votes for the last available seat or seats on the Community Council, the successful candidate(s) shall be decided by lot.
- 10.6 A returned ballot paper shall contain only such information as is requested to identify the candidates chosen by the elector. Any ballot paper which at the counting of the votes is found to:-

- a) contain any mark or other writing implying that the number of votes being cast is more than the designated number available to the elector; or
  - b) imply that more than one vote for any one candidate is being cast; or
  - c) identify the elector shall be deemed to be a spoilt paper and shall be disregarded in the count.
- 10.7 The Returning Officer shall appoint and instruct persons to supervise the ballot as appropriate and to conduct the count.
- 10.8 The Returning Officer, immediately after the counting of votes, shall complete a return to Dumfries and Galloway Council and to the Community Council concerned, containing the names and addresses of Members elected, details of the number of votes cast for each candidate, the number of ballot papers issued and returned, the number of spoilt ballot papers and any other information as to the conduct of the election which may be required by Dumfries and Galloway Council.
- 10.9 The Returning Officer shall, as soon as possible after the election, give public notice of the names and addresses of Members elected which shall be in the form set out in Schedule 9 to this Scheme.
- 11.0 General Provisions**
- 11.1 Within twenty-one days of the election of a Community Council, the Returning Officer shall convene the first public meeting of the Community Council. At this meeting, which shall be chaired, until a Chairperson has been elected, by the Returning Officer or his nominee, (who shall normally be an ex-officio Member, if available) the Community Council shall elect from its eligible Members a Chairperson, Vice Chairperson, to be known by such titles as the Community Council decide, subject to approval of those titles by Dumfries and Galloway Council, and such other office-bearers as the Community Council shall deem necessary. Thereafter such office-bearers, who shall be eligible for re-election, shall be elected or re-elected at the Annual General Meeting of the Community Council, or otherwise in accordance with the Constitution to be prepared as after-mentioned.
- 11.2 There are no restrictions within this Scheme in respect of the appointment of Chairman of any Community Council. Notwithstanding this provision there is nothing to prevent a Community Council from adopting within their constitution restrictions to the number of consecutive periods of office that any one person could hold as Chairman of that Community Council.
- 11.3 The Chairperson shall:-
  - a) be responsible for ensuring that meetings of the Community Council are properly conducted in accordance with the Constitution and Standing Orders; and
  - b) be responsible for the submission of a written report on the Community Council's activities for the previous year to the Annual General Meeting and thereafter to Dumfries and Galloway Council.
- 11.4 Every Community Council shall appoint (and may dismiss) a Secretary and a Treasurer who may be the same person and need not be a Member of the Community Council. The Secretary and/or Treasurer, if a Member of the

Community Council, shall retain office as Secretary and/or Treasurer until a successor is appointed, notwithstanding that they may demit office as a Member of the Community Council. Such appointees, if not Members of the Community Council, shall be entitled to speak only on matters relating to their function as office-bearers and shall have no voting rights.

11.5 The Secretary shall:-

- a) Convene all meetings of the Community Council and its committees (except the first meeting of the Community Council following an election of elected members);
- b) Undertake all correspondence arising from the work of the Community Council;
- c) Be responsible for preparing the minutes of meetings and making a true record of proceedings for distribution to Members and others; and
- d) Undertake other duties required by the Community Council from time to time.

11.6 The Treasurer shall:-

- a) correctly maintain the Community Council's financial records which shall disclose, with reasonable accuracy at any time, the financial position of the Community Council;
- b) take all reasonable steps to ensure that monies due are received and creditors paid;
- c) present financial information to the Community Council when required; and
- d) if nominated to do so, prepare annually an Abstract of Accounts.

11.7 All Office Bearers shall be entitled to be reimbursed for all reasonable expenses incurred in performing the duties of their posts and where any member of the Community Council is authorised to attend a meeting, that Councillor shall be entitled to expenses and subsistence at the current Local Authority rate for non elected members. The Secretary and/or Treasurer, if not Members of a Community Council, may be salaried.

11.8 Community Councils may appoint (and dismiss) such other employees as they may from time to time determine provided that no Member of a Community Council shall hold any paid office under that Community Council.

11.9 Following the first meeting after every election, each Community Council shall lodge with Dumfries and Galloway Council a return specifying the full names, designations and addresses of the Community Council's office bearers and Examiner(s) of their Accounts and subsequently advise Dumfries and Galloway Council in writing, within one month of a change occurring.

11.10 Meetings of each Community Council shall be convened at intervals of not more than six months and at least four meetings shall be held annually, one of which shall be the Annual General Meeting. All Ordinary Meetings of the Community Council shall be open to members of the public subject to the provisions of the Public Bodies (Admission to Meetings) Act 1960. A summary of the Act's main provisions shall be made available to each Community Council. All General Meetings shall be open to the public without exception.



- 11.11 Community Council Members shall comply with the Code of Conduct for Community Councillors Members as prescribed in Schedule 10 to this Scheme; a copy of the Code shall be issued to each Community Council. Members shall be required, in advance, to declare pecuniary and non-pecuniary interests relating to matters which might be under discussion and after doing so shall take no part in their consideration. Failure to observe this may lead to suspension and repeated failure to observe may lead to expulsion.
- 11.12 Only Community Council Members with full voting rights may vote at Ordinary Meetings of Community Councils.
- 11.13 The quorum for Ordinary Meetings of each Community Council shall be one-third of the Community Council membership eligible to vote, subject to a minimum of three. Notwithstanding these provisions, any Community Council which decides that it would function with greater public confidence could adopt within its constitution a revision to the effect that the quorum for ordinary meetings of each Community Council shall be one half of the Community Council membership entitled to vote subject to this being three or more.
- 11.14 Every Community Council shall once, and as far as possible in the same month in each year, convene an Annual General Meeting of the Community Council at which all persons of eighteen years of age and over then resident within the area (as defined in Schedule 1 of this Scheme) which the Community Council serves or represents and whose names appear in the sections of the Register of Electors for the area applicable to the Community Council and who would be entitled to vote in Community Council elections for that area shall be entitled to attend and vote.
- 11.15 The Agenda for every Community Council's Annual General Meeting shall include items for receiving the Council's Annual Report and the scrutinised/approved Abstract of Accounts; provisions, where necessary, for considering and voting on proposals for amendment of the Community Council's Constitution and any other business which can be competently dealt with at an Annual General Meeting.
- 11.16 Every Community Council may convene Special General Meetings of the Community Council at which all the persons described in Paragraph 11.14 of this Scheme may attend and vote, for the purpose of transacting any necessary business requiring to be dealt with at a General Meeting, details of which shall be specified on the Agenda. Every Community Council shall convene a Special General Meeting on a requisition to that effect, signed by 10% of the electorate or 50 electors of that Community Council, whichever is the lesser number, duly delivered to the Secretary of the Community Council.

## **12.0 Constitutions**

- 12.1 Within three months of its formation each Community Council shall draw up a Constitution for its establishment and management which must be approved locally by a majority of the Electorate of the area which it serves present and voting at a General Meeting convened by the Community Council for that purpose and thereafter submitted to Dumfries and Galloway Council for ratification. Dumfries and Galloway Council may ratify the Constitution as submitted or subject to any modification or amendment necessary to make it comply with this Scheme; and on the Constitution being so ratified, it shall become the Constitution of the Community Council. In the event of any

disagreement between a Community Council and Dumfries and Galloway Council on the terms of any amendments proposed by either party the final decision shall rest with Dumfries and Galloway Council. The Constitution of each Community Council shall be consistent with the terms of this Scheme. Following ratification by Dumfries and Galloway Council the Constitution shall be deemed to be adopted. Each Constitution shall contain provisions for the following:-

- a) The official name of the Community Council and a plan of the area served by the Community Council;
- b) Size, composition, purpose, functions and quorum (*as defined in Paragraph 11.13 above*) of the Community Council and of any Committees appointed by the Community Council which shall include a prohibition on the general delegation of the Community Council's powers to a Committee;
- c) Frequency of holding meetings, of which there shall be at least four in any twelve month period, to be convened at intervals of not more than 6 months, including provision for an Annual General Meeting, which shall be held not later than 60 days after the end of the Community Council's financial year. The Annual General Meeting shall, as far as possible, be held in the same month every year;
- d) The Agenda for the Annual General Meeting shall include items for receiving the following, namely:-
  - (i) a written report on the Community Council's activities for the previous year;
  - (ii) the scrutinised/approved Annual Abstract of Accounts; and
  - (iii) where appropriate provisions for considering and voting upon proposals for amendment of the Community Council's Constitution and any other business which can be competently dealt with at an Annual General Meeting.
- e) Rules whereby Members of the Community Council shall be advised of the place, date and time of any meetings of the Community Council, Committees or Sub Committees by means of written agendas, specifying the business to be conducted and sent either to their normal residence or place of work at least seven days before the due date of such meeting. Public notice shall be given by a copy of the agenda being affixed in a prominent and clearly visible position at the normal place where meetings of that Council are held and/or in such other manner or locations as may be prescribed in the Constitution;
- f) Rules for the keeping of Minutes which shall also provide that such Minutes shall be sent to Members of the Community Council either at their normal residence or place of work not later than with the issue of the Agenda for the next meeting, and that adequate arrangements shall be made for minutes of any meeting to be available for inspection in a public place within the Community Council's area not later than seven clear days prior to the next meeting of the Community Council;
- g) Method and procedure for the nomination of candidates;
- h) Term of office of Members of the Community Council;
- i) Provisions governing the election and/or appointment of office bearers including the Returning Officer which shall provide that the offices of Secretary and Treasurer may be held by the same person and need not be held by a Member of the Community Council;

- j) Appointment of ex-officio (*Dumfries and Galloway Council*) and co-opted Members;
- k) Procedure for filling of casual vacancies;
- l) Holding of heritable property;
- m) Provisions requiring that all Community Council business shall be conducted in accordance with Standing Orders to be prepared by the Community Council within three months of its formation which Standing Orders shall require to be approved in writing by Dumfries and Galloway Council prior to adoption and which shall not be amended without the prior written approval of Dumfries and Galloway Council.
- n) Provisions regulating the finance and accounts of the Community Council, including provisions specifying the financial year and arrangements for the annual certification or audit of accounts;
- o) Rules to ensure that each Member of the Community Council is given a copy of the Scheme at the commencement of membership, together with a copy of the Community Council's Constitution; Standing Orders; a summary of the main provisions of the Public Bodies (Admission to Meetings) Act 1960 and the Code of Conduct for Community Councillors;
- p) Calling of Special General Meetings;
- q) Rules governing alteration to the Constitution, including provision for agreement by the electors of the area at a General Meeting convened for that purpose, prior to submission to Dumfries and Galloway Council for ratification
- r) Provisions requiring that the names and addresses of the Members of the Community Council shall be displayed on the Community Council's notice board(s) and at other specified public locations subject to any necessary consents being obtained; and
- s) A dissolution clause whereby any motion to dissolve the Community Council shall be intimated and dealt with in the same way as a motion to alter the Constitution.

### **13.0 Financial Provisions**

- 13.1 Dumfries and Galloway Council may provide grants and support in kind for the purposes of assisting and promoting the interests of Community Councils within its area. The amount to be made available to each Community Council and the form of grant shall be at the sole discretion of Dumfries and Galloway Council.
- 13.2 At the request of a Community Council, Dumfries and Galloway Council may make further grants or loans towards the expense of carrying out special projects subject to such terms and conditions as Dumfries and Galloway Council deem appropriate.
- 13.3 In the event of any Community Council not being established, being in abeyance or becoming disestablished or dissolved, its share of any grant shall be retained by Dumfries and Galloway Council until such time as the Community Council is

formed or re-formed, when a proportion of the grant appropriate to the portion of Dumfries and Galloway Council's financial year remaining shall be awarded.

- 13.4 Community Councils shall be empowered to raise funds for schemes, projects and other purposes within their stated purposes.
- 13.5 All monies received by a Community Council, whether by way of grant, gift or loan shall be applied to maintain its administrative structure and/or to further the purposes of such Community Council.
- 13.6 Each Community Council shall keep an accurate record of its receipts and payments and the Treasurer or other nominated office bearer shall prepare annually an Abstract of Accounts. The books and Abstract of each Community Council shall be scrutinised and certified as giving as true and fair view of the state of the Community Council's financial affairs by an independent examiner, duly appointed by the Community Council for that purpose who shall not be a member of that Community Council. Only persons approved by Dumfries and Galloway Council for this purpose may be appointed. A copy of the approved Abstract of Accounts and Annual Report for each Community Council shall be submitted to Dumfries and Galloway Council within seven days of the Annual General Meeting.
- 13.7 Dumfries and Galloway Council may, so far as is reasonably and financially practicable, provide, free of charge, accommodation to Community Councils within premises under the ownership and control of Dumfries and Galloway Council for the purposes of holding Community Council meetings, or, where such accommodation is not available, contribute towards the hire charges incurred.
- 13.8 In the event of the disestablishment or dissolution of a Community Council for any reason all property and funds as are vested or under the control of the said Community Council at the date of disestablishment or dissolution shall be transferred to and vested in Dumfries and Galloway Council to be held in trust by them until a new Community Council is established for a period of not fewer than three years. After this three year period all assets including money held in bank, building society etc. accounts may be disposed of by Dumfries and Galloway Council for such charitable purposes in the area of the former Community Council as they in their sole discretion decide. The liability of all Members and Officers of the former Community Council shall cease on the transfer of the Community Council's assets and the submission of a certified or audited balance sheet for the former Community Council to Dumfries and Galloway Council.
- 13.9 A Community Council may lease or acquire heritable property, the title to which shall be taken in the names of such Office-bearers as may be specified in the Constitution for that purpose, as Trustees for such Community Council and their respective successors in office.
- 14.0 Arrangements for Liaison and Exchange of Information Between Dumfries and Galloway Council and Community Councils**
- 14.1 Dumfries and Galloway Council shall nominate an Officer or Officers to act as the principal point(s) of contact for matters relating to Community Councils in terms of this Scheme.

- 14.2 Dumfries and Galloway Council shall inform each Community Council of the names and addresses of its local Councillors within one month of any change.
- 14.3 Dumfries and Galloway Council shall, as soon as possible after the establishment of Community Councils in the Dumfries and Galloway area, consult Community Councils with a view to drawing up a Code of Practice for the exchange of information between the Authority and the Community Councils.
- 14.4 The Code shall include provision for the supply of information by Dumfries and Galloway Council to Community Councils on proposals and decisions which may affect the area concerned in order that the views of the Community may be ascertained.

## **15.0 Transitional Arrangements**

- 15.1 Following adoption of this Scheme existing Community Councils shall cease to exist but individual Members of former Community Councils may be consulted in an advisory capacity until a new Community Council has been established.
- 15.2 It shall be the responsibility of the members last holding office in the former Community Councils to draw up a closing statement of the Community Council's assets and liabilities which shall be audited or certified in the same manner as annual accounts. Thereafter, unless a Steering Committee is established to conduct Community Council business during the period from the date when the Community Council ceased to exist until the conclusion of the first elections, the assets of the former Community Councils shall be placed in the custody of a person approved for that purpose by Dumfries and Galloway Council who shall only administer such assets as authorised in writing by Dumfries and Galloway Council.
- 15.3 Where a Steering Committee is established it shall comprise only such persons as are approved for that purpose by Dumfries and Galloway Council (persons holding office as Community Councillors as at the date of this Scheme coming into force are so approved). The Steering Committee shall as far as is practicable conduct its business in the same manner as the former Community Council. The primary aim of the Steering Committee shall be to preserve the former Community Council's assets and to ensure where practicable that the routine work of the former Community Council is continued. The liability of members of a Steering Committee shall cease upon the transfer of the Community Council assets and the submission of an audited or certified balance sheet to either the newly elected Community Council or Dumfries and Galloway Council.
- 15.4 Should a new Community Council fail to be elected within six months of the coming into effect of this Scheme all assets of the former Community Council shall be assigned and made over to Dumfries and Galloway Council to be held in trust by them until a new Community Council is established for a period of not fewer than three years. After this three year period all assets including money held in bank, building society etc. accounts may be disposed of by Dumfries and Galloway Council for such other charitable purposes in the area of the Community Council as they in their sole discretion decide.
- 15.5 The liability of all Members and Officers of the former Community Council shall cease on the transfer of the Community Council's assets and the submission of a certified or audited balance sheet to Dumfries and Galloway Council.

- 15.6 Community Councils established in accordance with this Scheme shall inherit all assets and liabilities of every kind and description including interests in heritable property of the outgoing Community Councils for the individual areas which they serve. If Community Councils are established to serve areas geographically different from the outgoing Community Councils their assets and liabilities shall be divided on an equitable basis between the new Community Councils and if agreement cannot be reached Dumfries and Galloway Council shall be the final arbiter.

## **16.0 Permitted Variations**

- 16.1 *Notwithstanding the foregoing, Dumfries and Galloway Council may, following receipt of representations from a Community Council, amend the number of elected and the proportion of co-opted Members of the Community Council in terms of Schedule 1 and Paragraph 4.1(c)ii respectively either temporarily or for the purposes of the next and subsequent elections of that Community Council, and may allow variations to nomination procedures in terms of Paragraph 8.1 and to the number of votes available to each elector in terms of Paragraph 10.4, in both cases to take account of any sub-divisional representation system that the Community Council wish to operate, provided that the Constitution of that Community Council shall be amended accordingly at their next Annual General Meeting.*
- 16.2 *Before the next Ordinary Elections to Community Council, Dumfries and Galloway Council may, following consultations with the public and Community Councils, vary Paragraph 7.1 of this Scheme to require that all Ordinary Elections to Community Councils shall be held on the same date.*

## **17.0 Amendment of this Scheme**

- 17.1 Dumfries and Galloway Council, having regard to changing circumstances and to any representations made to them, shall from time to time review this Scheme, and where they consider that this Scheme ought to be amended, they shall proceed in accordance with the provisions and procedure specified in Section 53 of the Local Government (Scotland) Act 1973 to effect such amendment.

This Scheme, consisting of this and the fifteen preceding pages, the said Schedules and the said maps was approved and adopted by Resolution of us the Dumfries and Galloway Council and is made and executed by being subscribed on our behalf by Brendan Matthew Kearney, Practice Manager and Proper Officer at Dumfries on the twenty fifth day of September Nineteen hundred and ninety seven.

**TABLE SHOWING OFFICIAL NAMES OF COMMUNITY COUNCILS, ESTIMATED POPULATIONS AND MAXIMUM NUMBERS OF ELECTED COMMUNITY COUNCILLORS**

OFFICIAL NAME OF COMMUNITY COUNCIL	ESTIMATED POPULATION	NO. OF ELECTED MEMBERS
Ae Community Council	195	7
Auchencairn Community Council	425	7
Auldgirth and District Community Council	635	12
Balmaclellan Community Council	305	9
Balmaghie Community Council	615	12
Beeswing Community Council	150	9
Borgue Community Council	390	7
Brydekirk and District Community Council	450	7
Buittle Parish Community Council	410	8
Caerlaverock Community Council	660	13
Cairnryan Community Council	315	7
Canonbie and District Community Council	1,335	13
Carronbridge Community Council	320	13
Carsphairn Community Council	210	8
Castle Douglas Community Council	3,855	11
Castle Kennedy Community Council	540	9
Closeburn Community Council	800	13
Colvend and Southwick Community Council	910	12
Corberry and Laurieknowe Community Council	3,285	7
Cree Valley Community Council	4,730	21
Crossmichael and District Community Council	880	12
Cummertrees and Cummertrees West Community Council	1,010	11
Dalbeattie Community Council	4,020	12
Dalry Community Council	540	12
Dalton and Carrutherstown Community Council	430	11
Dundrennan Community Council	230	7
Dunscore Community Council	775	13
Durisdeer Community Council	150	13
Eastriggs, Dornock and Creca Community Council	2,340	10
Eskdalemuir Community Council	340	9
Garlieston Community Council	415	12
Gatehouse of Fleet Community Council	1,450	14
Georgetown Community Council	7,525	12
Glencairn Community Council	945	12
Gretna and Rigg Community Council	3,040	17
Heathhall Community Council	4,000	15
Hoddum and Ecclefechan Community Council	1,225	12
Holywood and Newbridge Community Council	540	18
Irongray Community Council	505	13
Isle of Whithorn Community Council	360	10
Johnstone Community Council	435	12
Keir Community Council	320	7
Kelton Community Council	545	7
Kingholm Quay Community Council	1,080	7
Kirkbean Community Council	325	12
Kirkcolm Community Council	750	7
Kirkconnel and Kelloholm Community Council	2,590	14
Kirkcowan Community Council	575	16
Kirkgunzeon Community Council	450	11
Kirkmabreck Community Council	955	10
Kirkmahoe Community Council	714	7
Kirkmichael Community Council	510	7
Kirkpatrick Durham and Corsock Community Council	1,040	12

OFFICIAL NAME OF COMMUNITY COUNCIL	ESTIMATED POPULATION	NO. OF ELECTED MEMBERS
Kirkpatrick Fleming and District Community Council	680	10
Kirkpatrick Juxta Community Council	555	7
Kirtle and Eaglesfield Community Council	975	12
Langholm, Ewes and Westerkirk Community Council	3,010	15
Leswalt Community Council	490	7
Lincluden Community Council	2,245	13
Lochans Community Council	330	7
Locharbriggs Community Council	2,184	7
Lochrutton Community Council	360	15
Lochside and Woodlands Community Council	5,395	13
Lockerbie and District Community Council	5,095	12
Loreburn Community Council	4,945	12
Middlebie and Waterbeck Community Council	505	10
Moffat and District Community Council	2,650	12
Mouswald Community Council	435	12
New Abbey Community Council	620	9
New Luce Community Council	235	9
North Milk Community Council	420	12
Ochtrelure and Belmont Community Council	2,340	10
Old Luce Community Council	1,315	15
Parton Community Council	150	9
Penpont Community Council	530	16
Portpatrick Community Council	840	12
Port William and District Community Council	885	18
Royal Burgh of Annan Community Council	8,925	12
Royal Burgh of Kirkcudbright and District Community Council	4,010	12
Royal Burgh of Lochmaben and District Community Council	2,390	11
Royal Burgh of New Galloway and Kells Parish Community Council	715	12
Royal Burgh of Sanquhar and District Community Council	2,370	13
Royal Burgh of Whithorn and District Community Council	2,200	14
Royal Burgh of Wigtown Community Council	2,200	15
Ruthwell and Clarencefield Community Council	400	15
Ryedale Community Council	2,480	12
Sorbie Community Council	300	12
Southerness Community Council	210	9
Springfield and Gretna Green Community Council	515	12
St. Michaels Community Council	2,835	7
Stoneykirk Community Council	1,060	12
Stranraer Community Council	9,260	14
Summerville and Stakeford Community Council	2,880	7
Templand and District Community Council	145	9
Terregles Community Council	250	9
The Royal Four Towns Community Council	467	11
Thornhill Community Council	1,790	15
Tinwald Parish Community Council	470	7
Tongland Community Council	315	12
Torthorwald Community Council	998	13
Troqueer Landward Community Council	1,230	13
Twynholm Community Council	585	7
Tynron Community Council	165	8
Urr Community Council	1,395	20
Wamphray Community Council	340	9
Wanlockhead Community Council	160	11

Shaded entry = Non-established Community Council as at 2006/07



**SCHEDULE 2  
NOTICE OF ELECTION**

**ELECTION OF COUNCILLORS - .....[insert official name]  
COMMUNITY COUNCIL**

1. Elections are to be held for the return of ..... [number of Councillors to be elected] Councillors who will comprise the elected Community Council for the ..... [insert official name of Community Area] Community Area for the period of .....[insert term of office from Constitution] years from .....[insert date of election]
  
2. Nomination Papers duly completed and signed must be delivered at .....[place convenient to Returning Officer] ..... between the hours of .....[time] on any day after the date of this Notice but not later than .....[time] on..... [insert date which shall be **21 days** before the date fixed for the election and **21 days** after the date of publication of this Notice]
  
3. Candidates for election may withdraw their nomination but only if they intimate their withdrawals at the same address not later than ..... [time] on .....[date][insert date which shall be 14 days before the date fixed for the election]
  
4. Nomination Papers and Notices of Withdrawal may be obtained from the Returning Officer at the said address.
  
5. The public should note that in the event of a poll, voting at this election will be confined to those members of the electorate who attend the poll in person. There will be no postal or proxy voting.

**Signature of Returning Officer** .....

**Address of Returning Officer** .....

..... **Date of this Notice**

**SCHEDULE 3  
NOMINATION PAPER**

**ELECTION OF A COUNCILLOR TO SERVE ON THE**

.....[*name of Community Council*] **COMMUNITY COUNCIL**

**DATE OF ELECTION:** .....[*date of election*]

We, the undersigned, being entered on the Register of Electors for the said Community Council area as eligible to vote in local government elections at the date of election referred to above, do hereby nominate the under-mentioned person as a candidate to serve upon the said Community Council.

**Please complete details in block capitals**

**Candidates full name** .....

**Candidates full address - as in Register of Electors** .....

.....

.....**Electoral Numbers** ...../.....

**Portion of area for which nominated - where Community Council is divided into wards** .....

We hereby declare to the best of our knowledge, information and belief that the said ..... is eligible in terms of Dumfries and Galloway Council's Scheme for the Establishment of Community Councils to be nominated as a candidate for the election as a Councillor on the said Community Council and we certify that we have not nominated any person other than the above named as a candidate for the said Community Council.

**Unless otherwise stated, please complete details in block capitals**

**Proposer's full name** .....

**Proposer's full address - as in Register of Electors** .....

.....**Electoral Numbers** ...../.....

**Signature** .....

**SCHEDULE 3, page 2**

**Secunder's full name** .....

**Secunder's full address - as in Register of Electors** .....

..... **Electoral Numbers** ...../.....

**Signature** .....

I, ..... the nominee for election, consent to being nominated as a candidate for the said Community Council. I declare that, if elected, I shall faithfully perform the duties of office and that I shall abide by the Code of Conduct for Community Council Members (and any amendments to the Code) and such Constitution and Standing Orders as Dumfries and Galloway Council may from time to time ratify in respect of the Community Council. I accept that failure to observe the Code may lead to suspension and repeated failure to observe may lead to expulsion from membership of the Community Council. (Copies of these documents shall be made available for inspection upon request to the Returning Officer).

I declare that I am qualified to be elected by reason of being entered on the Register of Electors for the area of the said Community Council as eligible to vote in local government elections at the date of election referred to above.

I declare that I am not disqualified from being nominated as a candidate for election to the said Community Council.

**Signature of Candidate**

.....

**NOTES:** 1. This nomination form, duly completed, must be returned not later later than ..... pm [*time*] on ..... [*day*], ..... [*date*] to the Returning Officer at ..... [*address of Returning Officer*]

2. Electoral numbers - the distinctive numbers from the Register of Electors for both Polling District and Elector e.g. 2203/333, should be given.

3. The Candidate nominated shall not be the Proposer or Secunder on this nomination form.

4. The Proposer and Secunder shall not nominate more than one candidate in the election.

**SCHEDULE 4  
NOTICE OF WITHDRAWAL OF NOMINATION**

..... **COMMUNITY COUNCIL ELECTIONS 20.....**

**Please complete in block capitals**

I, ..... [*full name  
of candidate, as in the Nomination Paper*] of .....

..... [*full address of candidate as in  
the Nomination Paper*] ..... [*\* Electoral Numbers*]

hereby withdraw my nomination as a candidate for election as a Community  
Councillor for the ..... [*name  
of Community Council*] Community Council at the next ensuing election of  
Community Councillors.

**Signature of Candidate** .....

**Date:** .....

**Witnessed by:**

**Signature of Witness** .....

**Address of Witness**.....

.....

..... **Date** .....

**Signature of Witness** .....

**Address of Witness**.....

.....

..... **Date** .....

\* Electoral Numbers: distinctive numbers from the Register of Electors for both the  
Polling District and Elector e.g. 2203/333

**SCHEDULE 5**  
**NOTICE OF UNCONTESTED ELECTION**

**ELECTION OF COUNCILLOR FOR THE .....COMMUNITY COUNCIL**

**DATE OF ELECTION .....**

The following candidates remain validly nominated for the elected Community Council of ..... and as not more than one candidate remains validly nominated to fill each vacancy on the Community Council, there will be no poll, and not later than 11.00am on the day of election, the said Candidates shall be declared to be elected Councillors of the said Community Council.

No. of Vacancies on elected Community Council	Name of Candidate remaining validly nominated	Address and Numbers as in Register of Electors*	Name of Proposer	Address of Proposer

**Signed .....** [Returning Officer]

**Date .....**

\* Electoral Numbers: distinctive numbers from the Register of Electors for both Polling District and Elector e.g. 2203/333

**SCHEDULE 6**  
**FORM A - FIRST ELECTION OF A COMMUNITY COUNCIL**

..... **COMMUNITY COUNCIL AREA**

**NOTICE OF NON-ESTABLISHMENT OF A COMMUNITY COUNCIL**

Notice is hereby given that the number of candidates remaining validly nominated for election to the proposed Community Council for the above mentioned area falls short by more than one-half of the total number required to comprise the elected Community Council in terms of the Scheme for the Establishment of Community Councils made by Dumfries and Galloway Council.

In terms of the Scheme referred to, no Community Council will be established for the above mentioned areas.

All property and assets as were vested or under control of the former

.....  
Community Council are transferred to and vested in Dumfries and Galloway Council to be held in trust by them until a new Community Council is established, for a period of not fewer than three years. After the expiry of the three year period, all assets including money held in bank, building society etc. accounts may be disposed of by Dumfries and Galloway Council for such charitable purposes in the area of the former Community Council as they in their sole discretion decide.

The liability of all members and officers of the former Community Council shall cease on the transfer of the former Community Council's assets and the submission of a certified or audited balance sheet for the former Community Council to Dumfries and Galloway Council.

In the event of not less than twenty electors in the proposed Community Council area making written application to Dumfries and Galloway Council for the establishment of a Community Council for that area in accordance with the Scheme referred to, Dumfries and Galloway Council shall, within six weeks of the date of receipt of the application, invite nominations and thereafter, if necessary, organise an election for the establishment of a Community Council for that area.

No application for the establishment of a new Community Council shall be made until ..... [insert date], 3 months from the date of the public notice of the invitation to submit nominations.

**Signed** .....  
[Returning Officer appointed by Dumfries and Galloway Council]

**ESTABLISHED COMMUNITY COUNCIL**

..... **COMMUNITY COUNCIL AREA**

**FORM B - NOTICE OF DISSOLUTION**

Notice is hereby given that the number of candidates remaining validly nominated for election to the Community Council falls short by more than one-half of the total number required to comprise the elected Community Council. In terms of the Scheme for the Establishment of Community Councils and the Community Council's Constitution made in terms of the said Scheme, the Community Council ceases to

exist with effect from .....[insert date fixed for the election].

All property and funds as are vested or under the control of the Community Council at the date of dissolution shall be transferred to and vested in Dumfries and Galloway Council to be held in trust by them until a new Community Council is elected, for a period of not fewer than three years. After the expiry of the three year period, all assets including money held in bank, building society, etc accounts may be disposed of by Dumfries and Galloway Council for such charitable purposes in the area of the former Community Council as they in their sole discretion decide.

The liability of all members and officers of the former Community Council shall cease on the transfer of the former Community Council's assets and the submission of a certified or audited balance sheet for the former Community Council to Dumfries and Galloway Council.

In the event of not less than twenty electors in the former Community Council area making written application to Dumfries and Galloway Council for the establishment of a Community Council for that area in accordance with the Scheme referred to, Dumfries and Galloway Council shall within six weeks of the date of receipt of the application, invite nominations and thereafter, if necessary, organise an election for the establishment of a new Community Council for that area.

No application for the establishment of a new Community Council shall be made until the expiry of a period of three months from the date of the public notice of the invitation to submit nominations.

**Signed** .....  
[Returning Officer appointed by Dumfries and Galloway Council]

**SCHEDULE 7  
NOTICE OF POLL**

..... **COMMUNITY COUNCIL  
ELECTION OF COUNCILLORS**

Polling will take place on ..... [insert date of election]

for the election of Councillors for the ..... [name of

Community Council], there remaining more validly nominated candidates than vacancies to be filled.

**The number of vacancies for elected members on the Community Council is ...**

The name and address of each candidate remaining validly nominated and the name and address of the proposer who signed the nomination paper for each candidate are as follows:

Name of Candidate remaining validly nominated	Address and Number as in Register of Electors	Name of Proposer	Address of Proposer

The persons entitled to vote as electors at this election are the persons who have attained the age of 18 years on the date of the Poll and whose names appear in one of the Polling Districts of the Register of Electors included in the area which the Community Council serves.

Polling will take place between the hours ..... on the

said date at .....

After the close of Poll, counting of votes will take place at

.....

**Signed** .....  
**[Returning Officer]**

**Date** .....



## **SCHEDULE 8**

### **PROCEDURE FOR BALLOT BOX ELECTION**

#### **1. PRELIMINARY ACTION BEFORE POLL**

The Returning Officer shall make arrangements for:

- a) A suitable building to be used as a polling place on the day of the election
- b) The necessary number of polling stations to be set up in the building on the day of the election, either in the same room or in separate rooms
- c) The appointment of a sufficient number of persons to act as Presiding Officers and Polling Clerks (the Returning Officer may himself act as one of the Presiding Officers)
- d) Obtaining sufficient ballot boxes and polling booths, one for the use of each Presiding Officer in his polling station
- e) Obtaining the necessary copies of the Register of Electors residing in the Community Council area for the time being in force, for the use of the Presiding Officers and Clerks in checking the names of electors who cast their votes
- f) Obtaining the necessary number of ballot papers (with counterfoils) for issue by the Presiding Officer to the voter
- g) The Community Council will provide the necessary stationery, sealing wax, string etc for supply to the Presiding Officers, as well as notices for the direction of voters in (i) gaining access to the appropriate Polling Station and (ii) how to vote.

#### **2. THE POLL**

**Before the poll opens** the Presiding Officer shall satisfy himself and any candidates who may be present that the ballot box is empty. He shall then close the box, lock and seal it leaving only the space necessary to admit the ballot papers.

**On entering the polling station**, the voter shall be asked by the Polling Clerk for his or her name and address and the Clerk should check that the information is contained in the Register of Electors. If it is, he should cancel the name in the Register and call out the voter's number in the Register to the Presiding Officer who will thereupon mark the number on the counterfoil and hand the ballot paper to the voter. The voter will then retire to a polling booth and mark the ballot paper with a cross against the name of each candidate for whom he/she wishes to cast a vote. The total number of candidates for whom any elector may vote shall not exceed the number of vacancies to be filled on the Community Council. After the paper has been marked the voter shall fold it once, deposit it in the ballot box and forthwith leave the polling station.

**At the close of poll**, the Presiding Officer shall admit no further voter to the polling station; shall allow all voters who may already have entered the polling station but not voted to record their votes, and, shall then close and seal the aperture in the ballot box; He shall then write out a statement of the number of ballot papers in his ballot box and forthwith deliver the ballot box, statement, books of marked counterfoils and marked Registers to the Returning Officer. He shall also clear from the polling station all notices, stationery etc.

### 3. THE COUNT

Immediately he receives all the sealed ballot boxes, statements, marked counterfoils and marked Registers, the Returning Officer shall, with such assistance as he may require, conduct in public a count of the votes cast for each candidate at a place previously earmarked by him for the purpose. He should proceed as follows:

- a) Open each of the ballot boxes and tip the contents on to a table. On opening each ballot box, the number of ballot papers it contains will be counted and checked against the number marked on the Presiding Officer's Statement. If the numbers coincide, the Returning Officer will ascertain the number of votes cast for each candidate. Where numbers do not coincide, the Returning Officer shall ascertain the reason(s) for this and make a record of this which he shall make available on request to any candidate; thereafter the counting of votes shall continue.
- b) Any ballot paper which at the counting of votes is found to fulfil any of the conditions below shall be deemed to be a **spoilt paper**:
  - any mark or other writing implying that the number of votes being cast is more than the designated number available to the elector, or
  - any mark or other writing implying that more than one vote for any one candidate is being cast, or
  - any mark or other writing identifying the elector
- c) The candidates whose collective number equals the number of vacancies on the Community Council and who have the highest numbers of votes cast in their favour individually shall then be declared by the Returning Officer to be duly elected members of the Community Council. Should it not be possible to ascertain all the elected members required owing to an equality of votes, the matters shall be decided by lot.

***Any matter which cannot be resolved with reference to the foregoing shall be governed by any applicable provisions contained in the Scottish Election Rules.***



.....[*name*]  
Community Council are as follows:

[illegible]

1. Voting for more than ..... [*number*] of candidates \_\_\_\_\_
2. Writing or mark by which voter could be identified \_\_\_\_\_
3. Unmarked or void for uncertainty \_\_\_\_\_

### Consolidated Version of Scheme

**A  
CODE OF  
CONDUCT  
FOR  
COMMUNITY  
COUNCILLORS**

## **C O N T E N T S**

### **I n t r o d u c t i o n**

- 1. The Law and Standing Orders**
- 2. Public duty and Private Interest**
- 3. Disclosure of Pecuniary and Other Interests**
- 4. Dispensations**
- 5. Disclosure in Other Dealings**
- 6. Membership of Committees and Sub-Committees**
- 7. Chairmanship**
- 8. Use of Confidential and Private Information**
- 9. Gifts and Hospitality**
- 10. Expenses and Allowances**
- 11. Dealings with the Community Council**
- 12. Use of Council Facilities**
- 13. Appointments to Other Bodies**
- 14. Authority of Code**

## **INTRODUCTION**

The National Code of Local Government Conduct provides, by way of guidance to members of local authorities, recommended standards of conduct in carrying out their duties, and in their relationships with the council and the council's officers.

This Code is based on that National Code issued jointly by the Secretary of State for the Environment, the Secretary of State for Scotland and the Secretary of State for Wales, under the provisions of the Local Government and Housing Act 1989, and has been amended to meet the differing circumstances, powers, needs and responsibilities of Community Councils.

In Scotland the National Code applies to all members of local authorities and joint boards and committees, but no guidance has been issued to members of Community Councils, although the Councils themselves are creatures of statute and the standards expected of Community Councillors will be no less high than those expected of local authority Councillors. The Scheme for the Establishment of Community Councils in Dumfries and Galloway adopted by Dumfries and Galloway Council requires that members of Community Councils shall undertake to abide by the terms of this Code.

This Code represents the standard against which the conduct of members will be judged, both by the public and by their fellow councillors.

## **1. THE LAW AND STANDING ORDERS**

Councillors hold office by virtue of the law, and must at all times act within the law. You should make sure that you are familiar with the rules of personal conduct which the law and your Community Council's Constitution and Standing Orders require, and the guidance contained in this Code. It is your responsibility to make sure that what you do complies with these requirements and this guidance. You should regularly review your personal circumstances with this in mind, particularly when your circumstances change. You should not at any time advocate or encourage anything to the contrary. If you are in any doubt, seek advice from the Liaison Officer for Community Councils, Department for Community Resources, Dumfries and Galloway Council or another of the Council's senior officers or from your own legal adviser. In the end however, the decision and the responsibility are yours.

## **2. PUBLIC DUTY AND PRIVATE INTEREST**

- 2.1 Your over-riding duty as a Councillor is to the whole local community served by the Community Council of which you are a member, although, if your Community Council is divided into wards, you may have a special duty to the electors of the ward you represent, including those who did not vote for you.
- 2.2 Whilst you may be strongly influenced by the views of others, it is your responsibility alone to decide what view to take on any question which Councillors have to decide.
- 2.3 If you have a private or personal interest in a question which Councillors have to decide, you should never take any part in the decision, except in the special circumstances described below. Where such circumstances do permit you to participate, you should never let your interest influence the decision.
- 2.5 You should never do anything as a Councillor which you could not justify to the public. Your conduct, and what the public believes about your conduct, will affect the reputation of your Council.
- 2.6 It is not enough to avoid actual impropriety. You should at all times avoid any occasion for suspicion and any appearance of improper conduct.

## **3. DISCLOSURE OF PECUNIARY AND OTHER INTERESTS**

- 3.1 Whilst the law does not make specific provision requiring you, as a Community Councillor, to disclose both direct and indirect pecuniary interests (including those of a spouse with whom you are living) which you may have in any matter coming before the Community Council, a Committee or a Sub-Committee, nor prohibit you from speaking or voting on that matter, you should behave as if the law applying to Dumfries and Galloway Councillors applies to you. Your Community Council's Standing Orders may also require you to withdraw from the meeting while the matter is discussed. These requirements must be scrupulously observed at all times.
- 3.2 Interests which are not pecuniary can be just as important. You should not allow the impression to be created that you are, or may be, using your position



to promote a private or personal interest, rather than forwarding the general public interest. Private and personal interests include those of your family and friends, as well as those arising through membership of, or association with, clubs, societies, and other organisations such as the Freemasons, trade unions and voluntary bodies.

- 3.3 If you have a private or personal non-pecuniary interest in a matter arising at a Community Council meeting, you should always disclose it, unless it is insignificant, or one which you share with other members of the public generally as a ratepayer or a council tax payer or an inhabitant of the area.
- 3.4 Where you have declared such a private or personal interest, you should decide whether it is clear and substantial. If it is not, then you may continue to take part in the discussion of the matter and may vote on it. If, however, it is a clear and substantial interest, then (except in the special circumstances described below) you should never take any further part in the proceedings, and should always withdraw from the meeting whilst the matter is being considered. In deciding whether such an interest is clear and substantial, you should ask yourself whether members of the public, knowing the facts of the situation, would reasonably think that you might be influenced by it. If you think so, you should regard the interest as clear and substantial.
- 3.5 In the following circumstances, but only in these circumstances, it can still be appropriate to speak, and in some cases to vote, in spite of the fact that you have declared such a clear and substantial private or personal interest:

if your interest arises in your capacity as a member of a public body, you may speak and vote on matters concerning that body; for this purpose, a public body is one where, under the law governing declarations of pecuniary interests, membership of the body would not constitute an indirect pecuniary interest;

if your interest arises from being appointed by your Community Council as its representative on the managing committee, or other governing body, of a charity, voluntary body or other organisation formed for a public purpose (and not for the personal benefit of the members), you may speak and vote on matters concerning that organisation;

if your interest arises from being a member of the managing committee, or other governing body of such an organisation, but you were not appointed by your Community Council as its representative, then you may speak on matters in which that organisation has an interest; you should not vote on any matter directly affecting the finances or property of that organisation, but you may vote on other matters in which the organisation has an interest;

if your interest arises from being an ordinary member or supporter of such an organisation (and you are not a member of its managing committee or other governing body), then you may speak and vote on any matter in which the organisation has an interest.

## **4. DISPENSATIONS**

4.1 Circumstances may arise where the work of your Community Council is affected because some Councillors have personal interests (pecuniary or non-pecuniary) in some question.

4.2 In the case of non-pecuniary interests, there may be similar exceptions to the guidance contained in paragraphs 3.2 to 3.5 of this Code. In the circumstances below it may be open to you to decide that the work of the Community Council requires you to continue to take part in a meeting which is discussing a matter in which you have a clear and substantial private or personal interest.

4.3 Before doing so, you should:-

take advice from the chairman of your Community Council (if this is practicable) or from the appropriate senior officers of Dumfries and Galloway Council as to whether the situation justifies such a step;

consider whether the public would regard your interest as so closely connected with the matter in question that you could not be expected to put your interest out of your mind (for example, the matter might concern a decision by the Community Council affecting a close relative); if you think that they would, you should never decide to take part in a discussion of, or a vote on, the matter in question; and

consider any guidance which your Community Council has issued on this matter.

4.4 The circumstances in which (after such consultation and consideration) you may decide to speak and vote on a matter in which you have a clear and substantial private or personal non-pecuniary interest are if, but only if at least half the Community Council would otherwise be required to withdraw from consideration of the business because they have a personal interest.

4.5 If you decide that you should speak or vote, notwithstanding a clear and substantial personal or private non-pecuniary interest, you should say at the meeting, before the matter is considered, that you have taken such a decision, and why.

4.6 The guidance set out in paragraphs 4.2 to 4.5 above also applies to Committees and Sub-Committees. However, if the Committee or Sub-Committee is very small, or if a large proportion of members declares a personal interest, it will usually be most appropriate for the matter to be referred to the full Community Council.

## **5. DISCLOSURE IN OTHER DEALINGS**

You should always apply the principles about the disclosure of interests to your dealings with Council officers, and to your unofficial relations with other

councillors at, for example, informal occasions no less scrupulously than at formal meetings of the Community Council, Committees and Sub-Committees.

## **6. MEMBERSHIP OF COMMITTEES AND SUB COMMITTEES**

You, or some firm or body with which you are personally connected, may have professional business or personal interests within the area for which the Community Council is responsible. Such interests may be substantial and closely related to the work of the Community Council or of one or more of the Community Council's Committees or Sub-Committees. You should not seek, or accept, membership of the Council or any such Committee or Sub-Committee if that would involve you in disclosing an interest so often that you could be of little value to the Council, Committee or Sub-Committee, or if it would be likely to weaken public confidence in the duty of the Community Council, Committee or Sub-Committee to work solely in the general public interest.

## **7. CHAIRMANSHIP**

You should not seek or accept the Chairmanship of the Community Council if you or any body with which you are associated, has a substantial financial interest in, or is closely related to, the business or affairs of the Community Council. Likewise you should not accept the Chairmanship of a Committee or Sub-Committee if you have a similar interest in the business of the Committee or Sub-Committee.

## **8. USE OF CONFIDENTIAL AND PRIVATE INFORMATION**

As a Councillor or a Committee or Sub-Committee member, you necessarily acquire information that has not yet been made public and is still confidential. It is a betrayal of trust to breach such confidences. You should never disclose or use confidential information for the personal advantage of yourself or of anyone known to you, or to the disadvantage or the discredit of the Community Council or anyone else.

## **9. GIFTS AND HOSPITALITY**

- 9.1 You should treat with extreme caution any offer or gift, favour or hospitality that is made to you personally. The person or organisation making the offer may be doing, or seeking to do, business with the Community Council, or may be applying to the Community Council for some kind of decision or recommendation.
- 9.2 There are no hard or fast rules about the acceptance or refusal of hospitality or tokens of goodwill. For example, working lunches may be a proper way of doing business, provided that they are approved by the Community Council beforehand and that no extravagance is involved. Likewise, it may be reasonable for a member to represent the Community Council at a social function or event organised by outside persons or bodies.
- 9.3 You are personally responsible for all decisions connected with the acceptance or offer of gifts or hospitality and for avoiding the risk of damage to public

confidence in local government. The offer or receipt of gifts or invitations should always be reported to the Secretary of the Community Council.

**10. EXPENSES AND ALLOWANCES**

There may be rules enabling you to claim expenses and allowances in connection with your duties as a Community Councillor or a Committee or Sub-Committee member, and these rules must be scrupulously observed.

**11. DEALINGS WITH THE COMMUNITY COUNCIL**

If you have dealings with the Community Council on a personal level, you should never seek or accept preferential treatment in those dealings because of your position as a Councillor or a Committee or Sub-Committee member. You should also avoid placing yourself in a position that could lead the public to think that you are receiving preferential treatment. Likewise, you should never use your position as a Councillor or a Committee or Sub-Committee member to seek preferential treatment for friends or relatives, or any firm or body with which you are personally connected.

**12. USE OF COUNCIL FACILITIES**

You should always make sure that any facilities (such as transport, stationery, or secretarial services) provided by the Community Council for use in your duties as a Councillor or a Committee or Sub-Committee member are used strictly for those duties and for no other purpose.

**13. APPOINTMENTS TO OTHER BODIES**

You may be appointed or nominated by your Community Council as a member of another body or organisation - for instance, to a voluntary organisation. You should always observe this Code in carrying out your duties on that body in the same way you would with your own Council.

**14. AUTHORITY OF CODE**

This code has been issued by Dumfries and Galloway Council as to the standard of behaviour expected by the Government of local Councillors. It is expected that all Community Council Members will adhere to its terms.

## SCHEDULE 11

### STANDING ORDERS

#### 1 COUNCIL MEETINGS

##### 1.1 Election Year

Within twenty-one days of an ordinary election of the Council, the Returning Officer shall convene the first public meeting of the Council.

##### 1.2 Conduct of the First Meeting of the Council after an Ordinary Election

1.2.1 The Returning Officer, or his or her nominee (who shall normally be an *ex-officio* Member, if available) shall chair the meeting and obtain nominations for the office of Chairperson.

1.2.2 The Chairperson shall be elected and shall thereafter chair the meeting.

1.2.3 The Council shall thereafter:-

- (a) elect a Vice Chairperson
- (b) appoint a Secretary and Treasurer who may be the same person and need not be a Member of the Council
- (c) elect such other office bearers as the Council considers necessary and appropriate
- (d) deal with any business considered necessary and appropriate.

##### 1.3 Ordinary Meetings of the Council

##### 1.3.1 Place and Time

All meetings of the Council, including General Meetings, shall be held at such place and time as the Council may decide subject to conformity with the provisions of the Constitution.

##### 1.3.2 Calling of Meetings

Members of the Council shall be advised of the place, date and time of any meetings of the Council, Committees or Sub Committees by means of written agendas, specifying the business to be conducted and sent along with the minute of the previous meeting either to their normal residence or place of work at least seven days before the due date of such meeting.

Public notice shall be given by a copy of the agenda and accompanying Minutes or other papers for discussion in public circulated with the agenda being affixed in a prominent and clearly visible position at the normal place where meetings of the

Council are held and/or in such other manner or locations as the Council may choose to prescribe.

1.4 Special General Meetings of the Council

A general meeting including a meeting convened to make a resolution for dissolution of the Council shall be called by the Secretary at least fourteen days before the date of such meeting in the manner prescribed in paragraph 1.3.2 together with such additional notice to the electorate as the Council may prescribe.

1.5 Items of Business to be considered at all Council Meetings

No business shall be discussed at any meeting other than that specified in the agenda unless a majority of the Members present and voting consider that any additional item(s) of business should be dealt with as a matter of urgency.

1.6 Order of Business

The order of business shall be:-

- (a) the recording of the names of members present;
- (b) the recording of apologies for absence;
- (c) the approval as a true record of the minutes of the previous meeting (after amendment if necessary) and the signing of these minutes by the person who presided or in his/her absence another Member who was present at the meeting to which the minutes relate;
- (d) the consideration of any other items on the agenda.

1.7 Persons to Preside

The Chairperson shall preside if present and if not the Vice Chairperson and in his or her absence another voting Member chosen by a majority of those present.

1.8 Quorum

No item of business shall be considered unless at least the number of members of the Council eligible to vote and specified as a quorum within the Constitution are present.

1.9 Minutes

The Secretary or, in his or her absence, another person present at the meeting selected by the Council or Committee for that purpose shall draw up a minute recording the persons present, apologies for absence, the date, time and place of the meeting, the items of business under consideration and the decisions taken in relation to those items. The draft minute so drawn shall thereafter be circulated and publicly displayed along with the agenda for the next meeting of the Council or Committee as appropriate in accordance with the provisions contained in Paragraph 1.3.2 above. The minute once approved by the Council or Committee and signed in accordance with paragraph 1.6 above shall be

preserved by the Secretary for future reference and transmitted to successors in that office. The signed minutes shall be taken as conclusive evidence of the matters to which they relate.

## **2 PROCEDURE AND CONDUCT OF MEETINGS**

### **2.1 Powers and Duties of the Chairperson**

- 2.1.1 The Chairperson shall preserve order and ensure that all members obtain a fair hearing.
- 2.1.2 The Chairperson shall decide on all matters of competency and relevancy, procedure and conduct of business.

### **2.2 Motions and Amendments at Meetings**

- 2.2.1 A motion must be competent and relevant to the business on the agenda and any amendments and counter amendments must be competent and relevant to the motion.
- 2.2.2 A motion and any amendments or counter amendments shall be moved and seconded.
- 2.2.3 A motion or amendment or counter amendments once moved and seconded may be altered or withdrawn with the consent of the mover and seconder.
- 2.2.4 When a motion and amendment or counter amendments are before a meeting, the last counter amendment shall be voted on as against the second last until the position is reached whereby a final vote shall be taken as between the successful amendment and the motion.
- 2.2.5 A Member shall not move or second more than one amendment or counter amendment to a motion, unless the earlier amendment or counter amendment is withdrawn.
- 2.2.6 The mover of a motion or amendment shall not speak for more than three minutes, each succeeding speaker shall not speak for more than two minutes and shall speak only once in the same discussion unless to call attention to a point of order or with the sanction of the Chairperson to make an explanation.
- 2.2.7 The mover of an amendment and the mover of the original motion in that order shall have the right to speak for two minutes in reply, strictly confining himself or herself to answering previous speakers and not introducing any new matter.
- 2.2.8 After the replies are concluded the discussion shall be held to be closed, after which no Member shall be permitted to offer an opinion or to ask a question or otherwise interrupt the proceedings or to speak, except with regard to a point of order or clarification and the question under discussion shall thereupon be put by the Chairperson.
- 2.2.9 Once a matter has been voted on, thereafter no other motion or amendment or counter amendment on the same business shall be competent at that meeting.

- 2.3 Voting Majority, Roll call, Ballot, Equality
  - 2.3.1 All questions coming or arising before the Council shall be decided by a majority of the Members present and voting. In the event of an equality of votes the Chairperson (or in his absence the person presiding) shall have a second or casting vote except in the case of the election of an office bearer, from within the membership of the Council when the equality shall be resolved by lot.
  - 2.3.2 Unless the Council otherwise determine for any specific occasion; the vote will be taken verbally in the order of the roll, beginning with the Chairperson

### **3 COMMITTEES**

- 3.1 The Council may appoint such Committees and Sub Committees as it considers necessary and appropriate.
- 3.2 Each Committee shall appoint a Chairperson and a Vice Chairperson (in accordance with the rules governing the appointment of officers).
- 3.3 The conduct of Committee meetings shall be the same as for full meetings of the Council as set out in Paragraph 2 above.