

**Handbook for SCHEME FOR COMMUNITY COUNCILS**

The purpose of this document is to provide guidance in the meaning and implementation of the Midlothian Scheme for Community Councils. It is not part of the Scheme, but is provided solely as an interpretation to assist in understanding the rationale. In case of any conflict between the Scheme and the Guidance, the Scheme shall provide the definitive information.

The body of this document follows the same structure as the Scheme itself to allow simple cross-referencing between the documents.

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## **1 Introduction**

This is the standard introduction from the Scottish Government model text.

This (2013) amendment to the scheme is intended to be less prescriptive than the original 1976 scheme, allowing Community Councils more flexibility in running their own affairs. As Community Councils are defined by the Local Government Act, they do not have complete autonomy from their local Council, and so some aspects of the scheme, in particular those that concern the relationship with Midlothian Council, are not able to be removed.

## **2 Title**

A standard title is defined for ease of future reference to this document.

## **3 Definitions**

These definitions are provided to simplify references later in the text and remove ambiguities that might otherwise arise.

## **4 Statutory Purposes**

Taken from the Model Scheme, this defines the statutory purposes for which a Community Council exists, but does not prevent a Community Council from undertaking other activities. Note that a key aspect of the Statutory Purpose is to “express ... the views of the community it represents” (i.e. not simply the views of the Community Councillors).

## **5 The Role and Responsibilities of Community Councils**

As above, Community Councils must be (and be seen to be) representative of the community.

There are certain topics (e.g. Planning Applications and Liquor Licensing) where the Community Council is required to be consulted, but this does not prevent consultation on any other mutually agreed topics.

In addition to the statutory Purposes of a Community Council, it may choose to carry out other activities (provided they do not conflict with the Scheme). Where a Community Council intends to pursue other activities, it should ensure that these activities are included in its own Constitution.

Obvious as it may seem, Community Councils are not exempt from the law, or from the applicable Codes of Conduct.

A **Community Council Constitution** is required and should not be seen as a static document, but as one which can change over time as the relationship between the Community, the Community Council and Midlothian Council changes. All Community Councils will be required to review their Constitution to ensure that it complies with the requirements of this Scheme.

The final part of this section provides more detail on the requirement to be truly representative. There can be a perception that Community Councillors represent their own views and not those of the community at large. Community Councils should both consult their Community and, where practical, keep records of such consultations. They should also ensure that their activities are published to their Community in whichever manner is most effective for their particular circumstances.

## 6 Community Council Areas within Midlothian

The physical boundary locations of the Community Council areas are unchanged from the 1976 Scheme, although now presented as maps for ease of interpretation. The Council planning staff and external developers have been using the maps as the definitive reference for some time, as the written definitions from the 1976 Scheme are open to misinterpretation as a result of developments over the past 30 years or so. References to plot numbers and unclassified road numbers have little meaning to the general public or external developers.

As the 1976 Scheme did not address a mechanism for boundary changes, any boundary change prior to the adoption of the 2013 Scheme would have meant the dissolution of the 1976 scheme (and of all Midlothian Community Councils) and then an expanded process including at least 2 public consultations before the Community Councils could be re-formed. As a result, it was decided, with legal advice, to amend the 1976 Scheme to produce the 2013 Scheme with no boundary changes, and include a mechanism for making boundary changes in the amendment.

### 6.1 Midlothian Federation of Community Councils

MFCC did not exist at the time of the 1976 Scheme, although Midlothian Council has subsequently recognised it informally as a point of contact and included MFCC within the Community Planning Partnership. This clause formally recognises MFCC and defines its relationship with the Community Planning Partnership.

## 7 Membership of Community Councils

In accordance with Scottish Government guidance, the classes of membership of a Community Council have been redefined, and the rules regarding the co-opting of

members have been tightened to prevent an effective takeover by unelected (co-opted) members during the term of office. Most of this relates to an extreme case which will not commonly occur, but would conflict with the principle that Community Councillors are ***elected*** representatives.

The Scheme allows for 16 and 17 year olds standing for election as Community councillors. As there is no current requirement to maintain a Midlothian Register of Electors for 16-17 year olds, the scheme defines the mechanism whereby residents of the area in that age group can be vouched for by other residents of the area. Note that, for simplicity, the other residents must themselves be listed on the relevant part of the Midlothian Register of Electors, since otherwise they would be subject to similar procedure themselves.

Certain elected representatives are exempt from holding the position of Community Councillor. This is the unchanged legal position which prevents these members from being Community Councillors, but defines them to be non-voting ex-officio members of each Community Council within their area of representation.

## **8 Amendment to the Boundaries and Composition of Community Councils**

This is the additional section referred to previously which permits boundary changes to be made without requiring the dissolution of the Scheme.

Boundary changes can only progress if all (not just a majority of) affected Community Councils agree to the change. The public consultation period is required by the government.

## **9 Community Council Elections**

### **9.1 Eligibility**

This again clarifies who can stand as a Community Councillor, and the procedure to be followed for younger candidates who cannot meet the Midlothian Register of Electors requirement.

It is up to individual Community Councils to monitor whether Community Councillors continue to be resident. As Community Councils represent small local areas, it is required that the representatives are residents of that specific area.

The additional constraint regarding bankruptcy proceedings and custodial sentences is in accordance with the restrictions which apply to Councillors.

### **9.2 Nominations and Elections**

The Scottish Government assume that all Community Councillors will retire at the same time and therefore the complete Community Council will be elected in a single Election, whereas some of our Community Councils use a “retire by rotation” approach.

The wording of this section does not mandate the election cycle of a Community Council. For example, while some Community Councils may choose to hold full election every 3 years, other may choose to “retire by rotation” and hold partial

election every year to maintain continuity within the Community Council. This is a matter for the Community Council constitution, provided it is not in conflict with the requirements of this scheme.

### 9.2.1 Returning Officer

The Returning Officer shall be responsible for checking nominations are valid, for counting votes, and for declaring the result. The Local Authority shall be given sufficient notice of the election to allow time for a Returning Officer to be appointed.

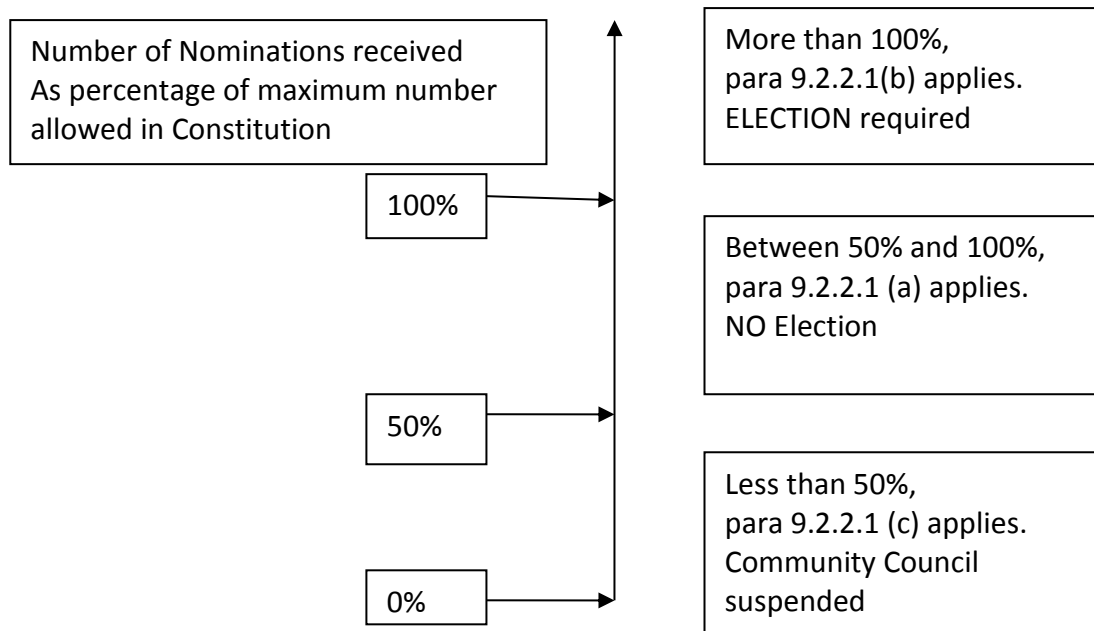
### 9.2.2 Nominations

Nominations must be made in advance of the election, allowing the returning officer to check they are valid prior to the election. Nomination forms are returned to the Community Council contact (normally the Secretary).

The Community Council is responsible for ensuring that the Liaison Officer is provided with the correct contact details, and verifying that these are correctly displayed on the Council website.

#### 9.2.2.1 Process

This defines the conditions for whether an election will be required, and/or whether the Community Council will be able to continue to exist. If the minimum numbers are not met, then it also permits Midlothian Council to initiate a new election to allow the Community Council to continue. The diagram below is intended to clarify the rules.



#### 9.2.2.2 Method of Election

A “Show of Hands” is in accordance with the “Good Practice” defined by the Scottish Government document. The Public Meeting must be adequately promoted within the Community Council area, so that potential voters are able to attend. Where there are local concerns about the use of this method, the Returning Officer is able to approve an alternate approach such as a secret ballot.

### **9.2.2.3 Filling of casual places/vacancies between elections**

This requires Community Councils to try and fill vacancies, and allows co-option as a quicker/simpler approach, provided at least half the Community Council will still be elected members. Note the reference to **ELECTED** members **excludes** those **Co-opted** since a previous election. This addresses the concern about the potential conversion of a Community Council to a dominantly co-opted one.

### **9.2.2.4 Co-option to Community Councils**

Co-opted members do not have a vote on the co-option for further members, preventing a progressive takeover of the Community Council. In addition, once the number of Co-opted members reaches 1/3 for any reason, an interim election process will be triggered. (Note for example that this could occur when 1 or more elected members of the Community Council become ineligible).

## **9.2.3 Additional Membership**

### **9.2.3.1 Associate Members**

This is the replacement for the “Nominated” members identified in the 1976 scheme. Any Community Council may now choose to have such members and to define the period of membership. Note that the Composition of Community Councils has been amended to show only a **maximum** number of Community Councillors – this number is the previous **combined** total of elected and nominated members, but **excludes** any associated members. Community Councils may find it beneficial to set a lower number in their constitution. For guidance, the table also shows the quorum if the maximum number is used.

### **9.2.3.2 Ex-Officio Members**

Further defines the rules regarding the elected members of local national and European government.

## **10 Equalities**

This is a legal requirement with which Community Councils must comply. Note the requirement is to **represent** the groups, not necessarily to **have representatives from** each or any of the groups.

## **11 Disqualification of Membership**

In general non-attendance would fail to comply with the requirement to be representative, and so the Community Council is permitted to terminate a membership on those grounds. The decision is left with the Community Council (rather than being automatic) to allow discretion to be applied in individual cases.

Disciplinary matters will be handled by the Liaison Officer rather than the Community Council to be independent of the personalities involved.

## **12 Meetings**

Each Community Council is free to define its own meeting schedule within the allowed limits, taking into account the local situation.

The quorum is defined in relation to the current voting membership to allow a degree of flexibility in those situations where the Community Council has vacancies for whatever reason, although note that there must always be a minimum of 3 voting members to form a quorum.

The Scheme defines a maximum number of Community Councillors (excluding Associate and Ex-officio members) which for smaller communities may be an unrealistic number. Consideration therefore should be given to setting an appropriate number of Community Councillors within the limits defined in this Scheme. Note that in 9.2.2.1 Process, the rules regarding elections and dissolution are defined in terms of the number defined in the Constitution, and it is therefore in the best interests of the Community Council to choose this number carefully.

It is clearly stated in the scheme that all meetings of community councils should be held in public however there is provision to vote to take items in private in exceptional circumstances within the scheme. If a community council wish to include a process for taking matters in private where the circumstances are exceptional then they require stating this in their new constitution and providing a robust rationale for it to be agreed by Midlothian Council legal representative. If a community council does not wish to include the provision of discussing items in private then they do not include this within their constitution. At a further date if a community council wish to include or take out the statement on processes for items to be heard in private they would require to implement the process to change their constitution as detailed in the scheme and handbook.

### **13 Liaison with the Local Authority**

Defines the primary contact with Midlothian Council to be the Liaison Officer, but does not require that all communication is via the Officer when other routes may be more appropriate.

### **14 Resourcing a Community Council**

Each Community Council is required to keep proper annual accounts and these must be independently examined.

In most cases the limited funds of a Community Council will be such that only “examination” of the accounts is required, and not a full “audit”. This removes any requirement to use a qualified accountant.

The Scheme does not change the principle of the Administrative Grant, awarded annually by Midlothian Council, but it is now required to be reviewed after each Midlothian Council election. Previously there was no requirement to review the grant. Grant levels are not defined within the Scheme, as this would require a Scheme amendment for any future changes.

### **15 Training**

It is recognised that Community Councillors, and especially those newly elected to the position, would benefit from training in a number of areas.

Midlothian Council and MFCC actively seek suggestions from Community Councils regarding the topics and format of training that should be provided to assist Community Councillors in performing their role.

## **16 Publicity**

This continues a requirement for Midlothian Council to promote Community Council activities.

## **17 Liability of Community Council Members and Federation**

The provision of a standard insurance scheme for all Community Councils removes the need for individual Community Councils to make and pay for such cover separately.

## **18 Dissolution of a Community Council**

In addition to whatever terms for dissolution are embodied in the Community Council Constitution, this section defines a process where Midlothian Council will consider a Community Council to have ceased to exist if it fails to hold 3 consecutive scheduled meetings.

To be “held”, a meeting must have a quorum. It is in the interest of any Community Council which fails to meet the quorum for 2 consecutive meetings to contact the Liaison Officer for assistance prior to calling the third meeting (which could otherwise result in the dissolution of the Community Council).

## **19 Establishment or Re-Establishment of a Community Council**

This section defines a simple process for the creation of a Community Council. It should be noted that:

- Where there was a previous Community Council in the area, the new Community Council does not automatically inherit the Constitution, but is free to draft a new Constitution as required.
- Midlothian Council is required to define an initial number of members for the Community Council – but this number only applies until the new Constitution is agreed.

This process is defined to allow a change to the constitution and membership, where, for example, a previous Community Council was forced to dissolve by being unable to meet the terms of its own Constitution.



## Appendix A. Member Definitions

The Scheme defines various types of Membership of a Community Council, and so, for clarity, the different types of membership are defined here.

### A.1 Community Councillors

- a) Elected refers to Community Councillors who have been elected at either a Normal or Interim Election. Elected Community Councillors have full voting rights on all matters at Normal and General meetings of the Community Council. They serve for the remainder of their term until the next Normal election as defined by the Constitution of the Community Council.
- b) Co-opted refers to Community Councillors who have filled a vacancy during the term of a Community Council without an election process. They have voting rights on all matters except the co-option of further Community Councillors. *(This is to prevent a “take-over” of the Community Council by a succession of Co-opted members, none of whom have been elected)*. They serve until the next normal or interim election. *(i.e. If a Community Council holds an interim election, then any existing co-opted members must be voted on to the Community Council at that time if they are to continue as Community Councillors.)*

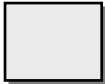
### A.2 Other Members

- a) Associate Members attend Community Council meetings to advise on specific topics, or to represent the interest of specific groups. Associate Members are appointed by the Community Council in accordance with their own Constitution and within the constraints of this scheme. The term of office may be for a specific period or for remainder of the term of the Community Council itself. The number of Associate Members may not exceed half the current number of elected Community Councillors. Associate Members have no voting rights.
- b) Ex-Officio Members are members of the Community Council by virtue of their election as Midlothian Councillor, MSP, MP, or MEP representing the area that includes the Community Council. Ex-officio members are disqualified from Election or co-option as Community Councillors. They have no voting rights.

## **Appendix B. Nomination form**

All nominations for election as Community Councillor must be made on the form shown on the following two pages, which is also available for download from the **Community Councils** section of the **Midlothian Council website**.

Office Use only	Date received	Time received	Initials	No.



Community Council

Nomination paper

ELECTION OF COMMUNITY COUNCILLORS NOMINATION FORM	
	Community Council
Day and Date of Election	

Candidate's Details	
Candidate's surname	
Other names in full	
Commonly used surname (if any)	
Commonly used forenames (if any)	
Home address in full (including postcode)	

I, the nominee for election, consent to being nominated as a candidate for the	
	Community Council
I declare that I am qualified to be elected. I am registered on the Midlothian Register of Electors and if not have two referees stating I am an official resident of the community council area.	
I declare that I am not disqualified from being nominated as a candidate for community council elections in Midlothian:	
<ul style="list-style-type: none"> <li>a. as detailed in the Midlothian Scheme for Community Councils</li> <li>b. by reason of holding a politically restricted post in Midlothian.</li> <li>c. by reason of being the subject of bankruptcy proceedings</li> <li>d. by reason of having had a custodial sentence of longer than 3 months in the past 5 years.</li> </ul>	
Candidate's signature	
Date	
Witness: I confirm the above-mentioned candidate signed the declaration in my presence.	
Witness's signature:	
Witness (name in full):	

of (address in full):	
Date	
<b>Details of Nominators</b>	
<b>Nominator 1</b>	
<p><b>I declare that to the best of my knowledge this candidate is resident in the community council area of _____ and is eligible<sup>1</sup> to stand as a candidate. I also declare I am on the Midlothian Register of Electors for the above named community council area and therefore eligible to nominate them to stand for election.</b></p> <p><b>Name:</b>  <b>Address:</b>  <b>Occupation:</b>  <b>Date:</b>  <b>Signature:</b></p>	
<b>Nominator 2</b>	
<p><b>I declare that to the best of my knowledge this candidate is resident in the community council area of _____ and is eligible<sup>1</sup> to stand as a candidate. I also declare I am on the Midlothian Register of Electors for the above named community council area and therefore eligible to nominate them to stand for election.</b></p> <p><b>Name:</b>  <b>Address:</b>  <b>Occupation:</b>  <b>Date:</b>  <b>Signature:</b></p>	

Please deliver to the **designated contact point** by the last day for the delivery of nominations.

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<sup>1</sup> Eligibility rules include residency in the specific Community Council Area and aged 16 years or over on the date of the election.