
REVIEW OF SCHEME FOR THE ESTABLISHMENT OF COMMUNITY COUNCILS

1.0 EXECUTIVE SUMMARY

The purpose of this report is to seek a decision from Council as to the timing of the next review of the Scheme for the Establishment of Community Councils in Argyll and Bute.

The quadrennial review of the Scheme is scheduled to take place this year having been implemented in October 2013. However, the Scottish Government has a manifesto commitment to deliver National Elections for Community Councils and their Policy Officers have already been seeking information about various methods of elections and costs of running these with the 32 Scottish Local Authorities. While no timescale for introducing National Elections has been divulged, there are no scheduled elections during 2018 which could pave the way for elections to take place at this time without coinciding with other planned elections.

As the position re National Elections is not clear at present, officers have sought views of our community councils as to whether they would be willing to continue in position for a further 6 month period thus delaying the implementation of a new Scheme until May 2018. The majority who responded indicated that they see the merit in extending the current Scheme until the position with National Elections became clearer and that they would continue to serve as Community Councillors. The Council therefore has the option to (a) agree to immediately review the Scheme so that elections take place in 2017 to ensure elections can be held during the course of this year or (b) to continue the existing Scheme for a period of 6 months by which time the position as to National Community Council Elections may become be clearer.

Previous decisions of the Council will require to be implemented as part of a review process. The first agreement was that a provision would be incorporated to allow 16-17 year old candidates to stand and vote in community council elections which reflects changes in the Local Government Election rules. It was also agreed that the next Scheme would pick up on a request to amend the name of Arrochar & Tarbet Community Council to Arrochar, Tarbet & Ardlui Community Council. Having worked effectively it is also suggested that the period of co-option be extended from 6 months to 2 years with annual by-elections being removed and replaced with an interim election to ratify co-option.

The review process should also consider the request of the Minister for Local Government and Housing, Kevin Stewart MSP, who has invited Councils, when next reviewing their Schemes, to incorporate a robust complaints process including sanctions to remove community councillors. A copy of his request is attached as Appendix 1. This additional work may be difficult to resource from existing staff resources due to the reduction of staffing in the Area Governance Team from 12 fte to 7.6 fte as of 1st April 2017.

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2.0 INTRODUCTION

2.1 The purpose of this report is to seek approval from Council as to the timing of a review of the Scheme for the Establishment of Community Councils in Argyll and Bute. The key purpose of the review is to update the Scheme as required and ensure it continues to underpin and support effective working arrangements against the context of:

- National policy and model frameworks
- Community Planning and Community Engagement
- Representative Democracy
- Practical issues relating to boundaries and geography

The review will be completed prior to Community Council Elections which are currently scheduled on a four-yearly cycle and fall due in 2017.

3.0 RECOMMENDATIONS

3.1 The Council is asked to resolve in favour of one of the following two options:

(a) Agree to immediately review the Scheme so that elections take place in 2017; or

(b) Continue the existing Scheme for a period of 6 months by which time the position as to National Community Council Elections may become be clearer.

3.2 In addition the Council should determine whether the new Scheme should contain provisions to apply sanctions to any community council or community councillor found to be in breach of the Code of Conduct per the recommendation by the Minister for Local Government and Housing (Appendix 1)

4.0 DETAIL

4.1 The Council previously appointed a Short Life Working Group who undertook a review of Community Councils during 2013. In June

2013 the Council approved a revised Scheme for the Establishment of Community Councils with associated Model Constitution, Model Standing Orders, and Best Practice Agreement.

- 4.2 Every review of the Scheme is underpinned by an extensive, two stage consultation process during which Community Councils, and other stakeholders, were asked to consider a number of strategic issues regarding the effectiveness of Community Councils, including the boundaries of designated Community Councils. There was only one minor change made to boundaries as part of the 2013 review and no issues were identified regarding boundaries during the current 4 years term.
- 4.3 On 23 April 2015 the Council agreed that the next Review would seek to ensure 16-17 year old could stand and vote in CC elections in order that this could be implemented for the next full elections. As part of the same report on Community Councils the Council agreed to consult, as part of the review process of the next Scheme, on a request by Arrochar and Tarbet Community Council to change their name to Arrochar, Tarbet and Ardlui Community Council.
- 4.4 The Community Empowerment Act creates an expectation that community councils will, in some instances, want to undertake delivery of certain services. In light of this, the Minister for Local Government and Housing has suggested that any Councils whose Scheme does not contain provision for sanctioning community councils/community councilors who breach the Code of Conduct or otherwise bring the community council into disrepute should look to incorporate such a provision in their next review process. If the Council wishes to incorporate a process for sanctions then options will be scoped out by officers which the Council would then be asked to approve as part of the Review.
- 4.5 The Scottish Government have a manifesto commitment allowing community councils that can demonstrate a strong democratic mandate to deliver some services. It further states that they intend that in future community council elections will be held on the same day across the country to increase their profile and recognition. There is no clarity to date on when such a national election might take place and in delaying introduction of a new Scheme until early 2018 will allow a longer period of time for details of this to emerge.
- 4.6 Given that the current Scheme runs from 2013-2017 it is critical that a decision be made as to when to review the next Scheme to allow time for the consultation phases required. Once determined, officers will take the necessary steps to conduct a first stage of consultation with a report being taken back on the findings of this consultation to a

future special meeting of the council as is required in terms of the Local Government (Scotland) Act 1973. A second stage consultation will then take place should there be any amendments necessary with the Council being asked to endorse the final version of the Scheme and agreeing a date when the new Scheme it will come into effect. This will be followed by elections and a process of inaugural meetings conducted by the Returning Officer's staff.

5.0 CONCLUSION

- 5.1 In order to support Community Councils effectively fulfil their statutory role and represent local communities within Argyll and Bute the Council is asked to resolve in favour of one of the two options outlined at paragraph 2.1 and determine whether there should be provision for sanctions incorporated within the new Scheme as well as the resource for this should there be no provision to resource from within the reduced resources of the Area Governance Team.

6.0 IMPLICATIONS

- 6.1 Policy – None. Only the Council has the power to approve a Scheme for the Establishment of Community Councils.
- 6.2 Financial – Incorporating sanctions may require an additional post which would incur an expense which is not budgeted for.
- 6.3 Legal – Community Councils are required in terms of the Local Government (Scotland) Act 1973 (as amended)
- 6.4 HR – There may be requirement for additional personnel to staff any complaints should there be an increase due to provision to apply sanctions to community councilors.
- 6.5 Equalities - none
- 6.6 Risk – Lack of sanctions could give rise to a lack of faith in our community councils when those breaching the code of conduct cannot be held accountable for their actions.
- 6.7 Customer Service - None

Executive Director of Customer Services

5 April 2017

For further information contact: Melissa Stewart, Area Governance Officer, Kilmory, Lochgilphead, PA31 8RT (Tel. No. 01546 604331)

APPENDICES

Appendix 1- Request by Minister for Local Government and Housing to incorporate process for applying sanctions to community councillors as part of the Review process.

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Community Council Liaison Officers

19 January 2017

Dear CCLOs

I am writing to you about procedures for complaints against community councils and community councillors. Some of you will already know that community councils fall within my Ministerial portfolio although I appreciate that statutory responsibility for them rests with local authorities.

The Scottish Government is aware of concerns around provisions in Schemes of Establishment for complaints against community councils and community councillors and also the sanctions that can be enforced.

We know that some local authority Schemes, for example in [East Renfrewshire Council area](#), do contain comprehensive procedures covering this area which include removal of community councillors, if a complaint is upheld. Moray Council has also facilitated, along with the Joint Community Councils of Moray and individual community councils/councillors, a separate [community council complaints procedure](#).

We are, however, aware that many local authorities do not have such comprehensive complaints procedures and sanctions in place. With the increasing emphasis on community empowerment it strikes me that it is important community councils and community councillors should be accountable for their actions and that there is an appropriate system of redress for complaints.

I would, therefore, like to encourage all local authorities, when next reviewing their Schemes and Codes, to consider including a robust complaints procedures and sanctions.

I would be grateful if questions relating to this letter are addressed to Laura Mulheron in the Community Empowerment Team in the first instance. She can be contacted at laura.mulheron@gov.scot

Yours faithfully,



KEVIN STEWART