

## **GOOD PRACTICE GUIDANCE FOR LOCAL AUTHORITIES AND COMMUNITY COUNCILS**

This Good Practice Guidance Document has been produced as a direct result of the recommendations arising from the review of Community Councils undertaken in 2005, and the subsequent recommendations put forward by the Scottish Government's Community Council Working Group.

This document is a "living document" and its purpose is to support the Model Scheme of Establishment of Community Councils as well as provide guidance based on good practice. This will enable both community councils and local authorities to work together to ensure that community councils have the capacity and capability to engage effectively in an open, transparent and positive manner alongside other community organisations allowing them to represent their community and enabling them to inform strategic decisions from a grass roots level.

New Community Councillors should be encouraged to read this as part of their induction as this is a comprehensive introduction to Community Councils and their workings.

It is intended that the document will evolve alongside the relationship between local authorities and community councils and we would welcome any suggestions on how the contents may be improved.

Please send your suggestions to Marion Kenmure, Community Planning Team, 3-J South, Victoria Quay, Edinburgh, EH6 6QQ, or, by e-mail to [marion.kenmure@scotland.gsi.gov.uk](mailto:marion.kenmure@scotland.gsi.gov.uk).

We will consider all suggestions and review the document contents on a regular basis.

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## **SECTION 1 AN INTRODUCTION AND BACKGROUND TO COMMUNITY COUNCILS**

### **Introduction to Community Councils**

Community Councils are groups of people who give time to, and have a genuine interest in, the well-being of their community. They meet, usually once a month, and their chief role is representative; to consult the local community and to make known to the local authority and other public bodies the views of local people on all matters affecting them.

The local authority, in return, has a duty to consult community councils on how local services are delivered and other issues affecting their neighbourhoods. Community councils have the right to be consulted on any planning applications in their areas and are also kept informed about licensing applications.

Community councils were introduced through the Local Government (Scotland) Act 1973. The Act defined the purpose of a community council as:

"to ascertain, co-ordinate and express to the Local Authorities for its area and to public authorities the views of the community which it represents, in relation to matters for which those authorities are responsible."

This has allowed community councils to get involved in a wide variety of issues. A recent survey by the Association of Scottish Community Councils identified over 1,000 different activities which community councils have undertaken. These included road improvements, youth projects, environmental initiatives, upgrading of amenities and community initiatives. In addition to this, there are any number of activities which they can become involved in which might benefit their area, either working on their own or in partnership with other agencies.

A community council can act as a campaigning body in raising awareness of specific local issues. They can be particularly useful in co-ordinating smaller, local organisations to ensure that resources aren't being wasted and that several groups aren't all trying to do the same job.

The Local Government Scotland Act, 1973 empowered all local authorities to assist community councils, both with funding and administrative support. There are currently about 1200 community councils in Scotland covering populations ranging from 35 to 34,000.

The boundaries of their communities are usually defined naturally, hence the name "community council". The features and rules that describe these boundaries, including the number of community council representatives, the populations they represent and their election procedures are determined by each parent local authority through the Scheme for Community Councils,

## **Origins of Community Councils**

In 1800 Glasgow obtained a local act of parliament to set up a system of policing, whereby a body of police commissioners, elected by householders, oversaw a police force, and the maintenance of paving, lighting and cleansing the streets.

Other Scottish burghs obtained similar local acts in the next few years, including Edinburgh in 1805. In 1832 and 1833 legislation converted royal burghs and many burghs of barony and regality into parliamentary burghs with elected councils.

Under the Police of Towns (Scotland) Act 1850 and the General Police and Improvement (Scotland) Act 1862 these powers were extended to include populous places as well as towns, and the result was the creation of over 100 'police burghs' across Scotland.

In the second half of the nineteenth century there were growing calls for reform of the burghs. Many suffered from financial mismanagement and corruption, particularly regarding parliamentary representation, and larger towns faced problems coping with industrial pollution, sewerage, disposal and water supply.

The Burgh Police (Scotland) Act 1890 ended the anomaly whereby some burghs had an elected body of police commissioners and also a town council, and granted further powers to burghs, allowing them to adopt public health, policing, paving, lighting and cleansing powers through a sheriff court process rather than by an Act of Parliament.

In 1930, under the Local Government (Scotland) Act, burghs were divided into counties of cities (Glasgow, Edinburgh, Aberdeen and Dundee), large burghs, and small burghs. Burghs were abolished in 1975 and at a local level, community councils were created.

Community councils were partly seen as a representative replacement for small burghs, although they were introduced within urban as well as rural areas. The district and regional council system introduced in 1975 was in turn replaced by the current unitary authority structures in 1996.

## **Community Council Activities**

To a great extent community councils are what they do. The breadth of their statutory purpose is reflected in a wide range of activities which contribute to a variety of roles. One way of describing community councils' main activity is that they hold meetings at regular, often monthly, intervals. However, the activities undertaken by community councils between meetings are important in determining their effectiveness as community representatives.

There is great variety between and within community councils and the most active will regularly:

- write letters following a meeting of the community council in order to highlight an issue
- attend meetings with public officials
- hold a public meeting either at regular intervals or in response to a specific issue, or to find out what are the areas of concern within the community
- carry out surveys in the area, typically by using questionnaires
- meet with other community councils or other community groups
- write in response to a draft policy report or consultation document
- receive and respond to enquiries and problems raised by members of the public
- send representatives to attend a meeting of a council area committee, advisory group or regeneration partnership
- produce a newsletter and distribute it to all homes in the area, or have a website
- arrange for public officials or others to attend future meetings of the community council
- negotiate codes of practice with local authorities
- arrange community events such as gala days, fetes, or clean up days in order to promote the community council.

## **SECTION 2 – ROLE OF THE COMMUNITY COUNCILLOR**

As a community councillor it is important that you recognise from the outset that you are required to play a role in your community. This means not simply offering your own views and opinions on local issues, or taking decisions that are based on your own self-interest.

The role of the community councillor is one that requires you to represent the views of your community, or your section of the community. In practice, this will involve discussing issues with people in the community to clarify their views and assess the strength of their feelings on different topics.

It is also a good idea to encourage people to bring issues to you so that you can take them up at community council meetings. Try to check out the facts, however, before taking matters to the community council, and if there are two sides to the story, make sure that both of them are put forward. There is little point in taking up time at meetings to discuss problems that are based simply on misunderstandings or misrepresentations of the facts.

At some point it may be that you will find some conflict between your own personal views and interests and those of the community that you are representing. If such a situation does arise, try to make sure that the views of the community take precedence. Experience shows that if the views of individuals on the community council are allowed to take priority then the community will very quickly lose confidence in the community council and its work may subsequently be devalued.

In some instances, it may be necessary and appropriate to declare an interest in the matter under discussion and to withdraw from that debate and decision-making.

The task of any community council is to identify the needs and aspirations of its community and to take decisions that will lead to appropriate action in that community. At some point this might involve setting priorities on the competing or conflicting needs of different sections of the community.

Competition and conflict are normal in any community, so you shouldn't think of them as something that can be altogether avoided. What is important is that you approach competition or conflict in a fair and reasonable manner. This means taking a balanced view of your community's needs and aspirations and giving a fair hearing to representatives from different interest groups in your community. In particular, you should try to avoid being influenced by prejudice or bias, whether in the sphere of race, religion, gender or any other of the "labels" which get attached to people and to local issues.

## **SECTION 3 - ROLE OF OFFICE BEARERS**

### **The Chairperson**

The Chair has perhaps the most important single role to play in ensuring that community council meetings run smoothly. But even a good Chair will find the task exhausting unless all the members of the community council give the role appropriate respect and support.

The Chair is elected in accordance with the rules set out in the community council's own Constitution. Your Secretary should be able to provide you with a copy. The Constitution is very important because it provides the framework of procedures that will govern the work of your community council.

In essence, the Chair's job is to make sure that decisions are taken on all of the items that are on the Agenda. In practice, this usually means that the Chair will have to make judgements about how much time to allocate to each Agenda item. It also means that he or she may occasionally have to bring speakers back to the Agenda and generally encourage people to make their contributions brief and to the point.

In regular meetings the role of the Chair is a *formal* one, all speakers will be expected to address their comments to the Chair. This helps the Chair to keep control of the discussion. In Committee meetings, where proceedings need not be so formal, the Chair may be content simply to steer the general direction of the discussion – this may be described as an *enabling* role. The extent to which a Chair adopts one or the other of these will be dependent upon the circumstances at a particular time or occasion. Set out below are some of the characteristics of the two approaches.

Perhaps most importantly of all, the Chair is expected to know the rules by which the community council functions, and ensure that at all stages of its work the community council is operating in accordance with any procedures that are set down. In this context the Chair may be called upon to act as an arbiter when there is a disagreement about how the rules should be interpreted.

It is important to recognise that the Chair's role extends outwith the meeting itself. The Chair may be called upon to act on behalf of the community council between meetings, or to represent the community council in dealing with outside bodies. This role may also be delegated by the community council to other office bearers or members.

Very often the Chair is seen as the “official” spokesperson for the community council and must be seen as authoritative and fair in all of their dealings with outside bodies, groups, individuals and the Press.

### **The Role of the Vice Chair**

The Vice Chair has no specific duties other than standing in for the Chair when he or she is unable to be present. Often the Vice Chair is the next “Chair in waiting”.

### **Formal Role and Enabling Role**

During meetings, the Chair can be described as having two main roles - formal and also enabling. The following table details the various elements of these two roles:

<b>THE FORMAL CHAIR</b>	<b>THE ENABLING CHAIR</b>
<i>General role and responsibilities</i>	
Ensure fair play	Have an overview of the task/goals of the meeting
Stay in charge	Help to clarify goals
Remain neutral	Help the group to take responsibility for what it wants to accomplish and to carry out its tasks
Have little emotional investment	
<i>Agenda and timekeeping</i>	
Open the meeting	Run through the agenda at the beginning and get the meeting’s approval for it
Introduce all agenda items	Arrange in advance for someone to introduce each agenda item
Be familiar with all agenda items	Update latecomers
Get through the agenda in allotted time	Keep track of the time
Evaluate how the meeting went	
<i>Discussion</i>	
Select speakers	Encourage and help all to participate
Summarise discussion	Encourage expression of various views



<b>THE FORMAL CHAIR</b>	<b>THE ENABLING CHAIR</b>
End discussion	Encourage people to keep to the subject
Ensure that people keep to the subject	Clarify and summarise discussion
Make it safe to share feelings	
Suggest ways of handling conflict	
<i>Decision making and voting</i>	
Ensure decisions are taken and agreed	Suggest structures for decision making
Decide when to and conduct the vote	Look for and test areas of agreement
<i>Rules</i>	
Check that the meeting has been called in accordance with the rules	
Have a thorough knowledge of the rules	
Rules on points of order and procedure	
<i>Outside the meeting</i>	
Act on behalf of the organisation	
Pursue decisions made in meetings	
Represent the Council to outside bodies	
Ensure someone will carry out decisions	Ensure that responsibility for action is allocated

## **The Secretary**

The Secretary is responsible for:

- The Agenda
- The Minutes of the meeting
- Answering all correspondence
- Writing any letters
- Circulating information to Members
- Public relations, dealing with the press, TV and radio (the community council could decide to delegate this role to the Chair, or a dedicated media rep)

- Looking after invited visitors and guest speakers
- Arranging the venue for meetings
- Liaison with officials of the local authority and other agencies

To be successful, a Community Council must have an energetic and conscientious Secretary prepared to put in the necessary time and effort. It is more than desirable for all Members, but especially the Chair, to spread the Secretary's load by, for instance, delegating some of his or her responsibilities to others, either individually or to small sub-committees. It is bad policy to overload your Secretary - you might find difficulty getting volunteers! The duties may be allocated to more than one person, for instance having someone to act as Minute Secretary - taking minutes at meetings.

It is essential that the Secretary has access to word-processing and photocopying facilities.

## **The Treasurer**

The Treasurer is responsible for:

- issuing all cheques and making payments on behalf of the Community Council and any charities and/or other funds dispersed by the Council.
- managing the bank account, account for all funds received, and ensure money is only spent in a manner approved by the Community Council Members as recorded in the minutes.
- maintaining the Community Council's financial records so that they disclose, with reasonable accuracy at any time, the financial position of the Community Council.
- ensuring cheques are signed by two persons authorised by the Community Council Members as recorded in the minutes, and notified to the bank in writing. It is good practice to have more than two authorized signatories, in the event of someone being unavailable at short notice. As a general rule, Treasurers should avoid paying out money except by cheque. This makes accounting for expenditure much easier.
- keeping proper accounts of all receipts and expenditure and prepare an Annual Statement of Accounts. Councils should use an independent, external examiner to approve the accounts. This need not be a professional accountant, but should be someone who has some relevant

knowledge, e.g. the book-keeper of a local community centre, local housing organization (LHO), or housing association.

- must report and answer any questions raised by Members of the Council or the public on the **Statement**, this must be formally approved at the next AGM. When statement certified and approved, it should be sent to the local authority, as part of the process of applying for the annual administration grant.
- The standard form of words for the Treasurer's Certificate is:  
***"I certify that the above accounts have been prepared by me and accurately reflect the financial provisions relating to the period ....."***
- preparing simple budgets to advise Members prior to their committing funds.

*Further advice is available at section 13 on Core funding.*

## **SECTION 4                    SCHEME REVIEW PROCESS**

This step-by-step guide to a review process for a Scheme for the Establishment of Community Councils is largely taken from the original Scottish Office publication: 'Local Authorities and Community Councils: Enhancing the Relationship'. The guide is however, supplemented by a practical example of a timetable with decision-making process; and Press Notices for the execution of a review process.

The statutory basis for establishing community councils is set out in Sections 51 to 55 of the Local Government (Scotland) Act 1973. This is supplemented by Section 22 of the Local Government etc. (Scotland) Act 1994. So, for the purposes of precision.....

### **The Statute Says:-**

Local Government (Scotland) Act 1973

"51. - (1) Every local authority shall, before 16th May 1976, or such later date as may be agreed by the Secretary of State, submit to the Secretary of State, in accordance with the provisions of this Part of this Act, a scheme for the establishment of community councils for their area.

(2) In addition to any other purpose which a community council may pursue, the general purpose of a community council shall be to ascertain, co-ordinate and express to the local authorities for its area, and to public authorities, the views of the community which it represents, in relation to such matters for which those authorities are responsible, and to take such action in the interests of that community as appears to it to be expedient and practicable.

51. - (3) Repealed.

52. - (1) Every local authority shall give public notice of their intention to frame a scheme for the establishment of community councils, and any such notice shall invite the public, within a period of not less than eight weeks from the date of the notice, to make suggestions as to the areas and composition of the community councils.

(2) After considering suggestions made under subsection (1) above, the local authority shall prepare and give public notice of a draft scheme which shall contain -

(a) a map showing the boundaries of the proposed areas of community councils and their populations, and the boundaries of any area for which the local authority consider a community council to be unnecessary;

(b) where a local authority consider that a community council is unnecessary

for any area, a statement of their reasons for arriving at this conclusion;

(c) provisions relating to qualifications of electors, elections or other voting arrangements, composition, meetings, financing and accounts of community councils;

(d) provisions concerning the procedures to be adopted by which the community councils on the one hand and the local and public authorities with responsibilities in the areas of the community councils on the other will keep each other informed on matters of mutual interest; and

(e) such other information as, in the opinion of the local authority, would help the public to make a reasonable appraisal of the scheme.

(3) The notice mentioned in subsection (2) above shall invite the public, within a period of not less than eight weeks from the date of the notice, to make to the local authority representations as respects the draft scheme.

(4) After considering any representations made under subsection (3) above, the local authority may amend the draft scheme to take account of those representations and shall submit the scheme to the Secretary of State for his approval along with any outstanding representations and their comments upon them.

(5) The Secretary of State, after holding, if he thinks fit, a local inquiry in relation to the whole scheme or any part thereof, may approve, with or without modifications, a scheme submitted to him under subsection (4) above, or may refer the scheme back, in whole or in part, for further consideration by the local authority concerned.

(6) After the Secretary of State has approved a scheme, the local authority shall give public notice of the scheme in its approved form together with public notice of such a scheme as it applies to each proposed area, by exhibition in that area, and any such notice shall contain an invitation to electors in the area concerned to apply in writing to the local authority for the establishment of a community council in accordance with the scheme.

(7) Where not less than 20 electors apply as mentioned in subsection (6) above, the local authority shall, within not more than six weeks from the date of the application, organise, in accordance with the scheme, elections or other voting arrangements for the purpose of establishing the community council.

53. - (1) Having regard to changing circumstances and to any representations made to them, every local authority shall from time to time review schemes made and approved under section 52 of this Act and, where they consider that such a scheme ought to be amended, they shall give public notice of their proposals, inviting any community council concerned and the public to make

to the local authority representations as respects the proposals.

(2) The local authority shall consider any representations made under subsection (1) above and may amend the scheme in accordance with -

(a) the notified proposals; or

(b) those proposals as amended to take account of any such representations.

Provided that the scheme shall not be amended under paragraph (b) of this subsection unless public notice of the amendments to the proposals has been given with a further invitation to make representations under subsection (1) above.

(3) A decision of the local authority -

(a) to review, under subsection (1) above; or

(b) to amend, under subsection (2) above,

a scheme, shall be by resolution passed by not less than two-thirds of the members voting thereon at a local authority meeting specially convened for the purpose with notice of the object.

54. Repealed.

55. Councils for local government areas may make such contributions as they think fit towards the expenses of community councils within their areas, may make loans to those councils and may, at the request of such community councils, provide them with staff, services, accommodation, furniture, vehicles and equipment, on such terms as to payment or otherwise as may be agreed between the councils concerned.

Local Government etc (Scotland) Act 1994

22. - (1) Subject to subsection (2) below, schemes for the establishment of community councils made and approved under section 52 of the 1973 Act, including any such schemes as amended by section 53 of that Act, which are effective immediately before 1st April 1996 shall continue to have effect in respect of that area, or part of an area, to which they apply on and after that date.

(2) Without prejudice to their duty under section 53 of the 1973 Act, on and after 1st April 1996, a local authority may revoke a scheme (or an amended scheme) such as is mentioned in subsection (1) above in so far as it relates to their area and make a new scheme in accordance with this section.

(3) Where a local authority propose to make a new scheme such as is mentioned in subsection (2) above -

(a) they shall give public notice of their intention to revoke the existing scheme and make a new scheme for the establishment of community councils, and any such notice shall invite the public, within a period of not less than eight weeks from the date of the notice, to make suggestions as to the areas and composition of the community councils;

(b) after considering suggestions made under paragraph (a) above, the local authority shall prepare and give public notice of a draft scheme which shall contain -

(i) a map showing the boundaries of the proposed areas of community councils and their populations, and the boundaries of any area for which the local authority concerned consider a community council to be unnecessary;

(ii) where a local authority consider that a community council is unnecessary for any area, a statement of their reasons for arriving at that conclusion;

(iii) provisions relating to the qualifications of electors, elections or other voting arrangements, composition, meetings, financing and accounts of community councils;

(iv) provisions concerning the procedures to be adopted by which the community councils on one hand and the local and public authorities with responsibilities in the areas of the community councils on the other will keep each other informed on matters of mutual interest; and

(v) such other information as, in the opinion of the local authority, will help the public to make a reasonable appraisal of the scheme;

(c) the notice mentioned in paragraph (b) above shall invite the public, within a period of not less than 8 weeks from the date of the notice, to make representations to the local authority as respects the draft scheme;

(d) after considering any representations made under paragraph (c) above, the local authority may, after giving public notice of the amendments to the proposals and a further invitation to make representations, amend the draft scheme to take account of those representations and adopt it;

(e) the local authority shall give public notice.

For the purposes of practical implementation of a review then, the legislation can be broken down into several steps, within each of which there are several actions to be undertaken. There may very well be some fine distinctions drawn between individual local authorities' application of the process. For

example, the statutory consultation periods of 8 weeks may be extended to 12 weeks to reflect national consultation standards.

## **Decision to amend a Scheme**

There can be several reasons for a local authority to consider the amendment of a Scheme, commonly; changing local landscape, demographic shifts, and in the case of most local authorities at this time (2009), the endorsement by the Scottish Government, CoSLA and the Association of Scottish Community Councils of a Model Scheme for the Establishment of Community Councils, together with accompanying documentation, which has been published following a Scotland-wide consultation exercise on its appropriateness.

1. A Special Council meeting (please note that all of the Council meetings referred to in this section should be Special Council meetings, held for that purpose. The most common mechanism for this is that the Special Council meetings are held immediately before the calendared Council meetings) considers a report on the intention to amend its Scheme for the Establishment of Community Councils under Section 53. - (1) of the Local Government (Scotland) Act 1973.

2. Upon approval of the report, a <sup>2</sup>Public Notice is published in the local Press to that effect with an, at least, 8-week consultation period for any representations to be made on the: ***'draft amended areas and composition of the community councils'***.

3. A Special Council meeting considers a report on the outcome of the consultation exercise on the draft amended areas and composition of the community councils; and additionally, the contents of a proposed draft amended Scheme.

4. Upon approval of the report, a second <sup>3</sup>Public Notice is published in the local Press to that effect with an, at least, 8-week consultation period for any representations to be made on the: ***'draft amended Scheme'***.

5. A Special Council meeting considers a report on the contents of a draft amended Scheme and its adoption.

6. Upon approval of the report, a third <sup>4</sup>Public Notice is published in the local Press to that effect with a, commonly, 4-week consultation period for any final representations to be made on the draft amended Scheme, together with associated documentation, including community council boundaries.

7. A Special Council meeting considers final representations and agrees the 'Amended Scheme for the Establishment of Community Councils'.

8. A fourth <sup>5</sup>Public Notice is published ***'of the Scheme in its amended form together with Public Notice of such a Scheme as it applies to each proposed area, by exhibition in that area, and any such notice***



*shall contain an invitation to electors in the area concerned (\*where there is currently no community council established) to apply in writing to the local authority for the establishment of a community council in accordance with the amended Scheme’.* The already established community councils operate as normal under the new Scheme until their new prescribed election dates come around.

Please note that there may be instances when a consultation period does not attract any or any substantive representations. However, as the legislation illustrates a staged approach to the process, the most common complete statutory review period would be 8-weeks, 8-weeks and finally, 4-weeks.

\*No invitation to petition the Council for the establishment of a community council is required for currently established community council areas as the new Scheme would automatically come into force for them to continue as normal.

### **GUIDE TIMETABLE FOR A REVIEW OF A COUNCIL’S ‘SCHEME FOR THE ESTABLISHMENT OF COMMUNITY COUNCILS’**

<u>DATE</u>	<u>EVENT</u>	<u>DESCRIPTION</u>
1. February	Special Council Meeting.  <b>Both areas and composition and draft Amended Scheme and associated documentation.</b>	As part of a report on the current scheme, of community councils, Council to consider a recommendation to amend the existing scheme and make a new scheme for the establishment of community councils.
2. February	<b>(2)</b> Publish Public Notice.  <b>Areas/Composition.</b>	Give public notice of the Council’s intention to amend the existing scheme and make a new scheme for the establishment of community councils. Period of 8 weeks from February to April.
3. May	Special Council Meeting.  <b>Areas/Composition.</b>	Council to consider suggestions from the first consultation period and agree a draft amended scheme for consultation.
4. May	<b>(3)</b> Publish Public Notice.  <b>Draft Amended Scheme and associated documentation.</b>	Give public notice of the Council’s draft amended Scheme. Period of 8 weeks from May to July.
5. August	Special Council Meeting	Council to consider

	<b>Draft Amended Scheme and associated documentation.</b>	suggestions to the draft amended scheme and agree a final draft amended scheme for consultation.
6. August	<b>(4)</b> Publish Public Notice.  <b>Both.</b>	Give public notice of the Council's final draft amended scheme for the establishment of community councils. Period of 4 weeks from August to September
7. November	Special Council Meeting.  <b>Both.</b>	Council to consider suggestions to the final draft amended scheme; alter if required; and formally approve the amended scheme.
8. December	<b>(5)</b> Publish Public Notice.  <b>Establishment Process/Notice for currently non-established community council areas.</b>	Give public notice of the Council's amended scheme; and invitation to electors to apply for establishment (where there is no community council currently in existence).

Within the context of each of the consultation stages, there are administrative tasks to be undertaken, such as direct notification to and the provision of, plans and associated documentation to all community councils and placing of same, for general public access and scrutiny, in appropriate locations across the local authority area. Each local authority, outwith its normal decision-making processes, will have its own methodology when it comes to briefing elected members.

## **<sup>1</sup>Local Authorities and Community Councils: Enhancing the Relationship**

<http://www.scotland.gov.uk/library/documents-w3/lacc-00.htm>

The undernoted shall be appended to the finalised guidance, following receipt of comment from local authority CCLOs.

### **<sup>2</sup>Public Notice (examples follow this page)**

**<sup>3</sup>Public Notice**            "

**<sup>4</sup>Public Notice**            "

**<sup>5</sup>Public Notice**            "

(2) ..... COUNCIL

**Local Government (Scotland) Act 1973**

**Proposed Amendments to the Council's  
Scheme for the Establishment of Community Councils**

Notice is hereby given, that ..... Council, in exercise of the powers conferred upon it by Section 53 (1) of the above mentioned Act, proposes to amend the Scheme for the Establishment of Community Councils.

A Special Meeting of the Council, held on ....., agreed to a public consultation exercise on proposed amendments to the Scheme.

The initial consultation process will be held over two 8 week periods. The first consultation period shall address the **Plan of Community Councils' Areas and Disposition** and the second period shall address the Scheme itself, together with associated documentation. A final 4 week period of consultation will be held prior to adoption of any amendments.

A plan of the proposed amendments to community council areas and disposition may be examined at:-

Council Headquarters, ..... ;

All Libraries; and

On the Council's website, at: [www. .... .gov.uk](http://www.....gov.uk)

Any person or organisation wishing to make written representations on the proposed amendments should address them to ....., ....., within a period of 8 weeks from publication of this Notice.

.....  
Chief Executive,  
..... Council.

(3) ..... COUNCIL

**Local Government (Scotland) Act 1973**

**Proposed Amendments to the Council's  
Scheme for the Establishment of Community Councils**

Notice is hereby given, that ..... Council, in exercise of the powers conferred upon it by Section 53 (1) of the above mentioned Act and in the second period of the consultation process published, proposes to amend the Scheme for the Establishment of Community Councils.

A Special Meeting of the Council, held on ....., agreed to a public consultation exercise on proposed amendments to the Scheme to be held over two 8 week consultation periods.

This second period of consultation addresses the Scheme itself, together with associated documentation.

The proposed amendments to the **Scheme for the Establishment of Community Councils and Associated Documentation** may be examined at: -

Council Headquarters, ..... ;

All Libraries; and

On the Council's website, at: [www. .... .gov.uk](http://www..... .gov.uk)

Any person or organisation wishing to make written representations on the Scheme for Establishment of Community Councils and Associated Documentation should address them to ....., ....., within a period of 8 weeks from publication of this Notice.

.....  
Chief Executive,  
..... Council.

**(4) ..... COUNCIL**

**Local Government (Scotland) Act 1973**

**Proposed Amendments to the Council's  
Scheme for the Establishment of Community Councils**

Notice is hereby given, that ..... Council, in exercise of the powers conferred upon it by Section 53 (1) of the above mentioned Act, has concluded the initial two periods of 8 week public consultation on proposed amendments to the Scheme for the Establishment of Community Councils

A Special Meeting of the Council, held on ..... agreed to give public notice of these amendments and a final 4 week period to make representations, prior to its adoption

The Amended Scheme for the Establishment of Community Councils, together with Associated Documentation and the Amended Plan of Community Council Areas and Disposition may be examined at:-

Council Headquarters, ..... ;

All Libraries; and

On the Council's website, at: [www. .... .gov.uk](http://www.....gov.uk)

Any person or organisation wishing to make written representations on the proposed final amendments should address them to ....., ....., within a period of 4 weeks from publication of this Notice.

Where no representations have been made, the Amended Scheme for the Establishment of Community Councils (associated documentation and areas and composition) will have effect as amended by the proposals.

.....  
Chief Executive,  
..... Council.

(5) ..... COUNCIL

**Local Government (Scotland) Act 1973**

**Adoption of Amendments to the Council's  
Scheme for the Establishment of Community Councils**

Notice is hereby given, that ..... Council, in exercise of the powers conferred upon it by Section 53 (1) of the above mentioned Act, has concluded the public consultation exercise on proposed amendments to the Scheme for the Establishment of Community Councils.

A Special Meeting of the Council, held on ..... agreed to adopt the Amended Scheme for the Establishment of Community Councils, together with Associated Documentation and Plan of Community Councils' Areas and Disposition, with immediate effect.

The adopted Amended Scheme for the Establishment of Community Councils, together with Associated Documentation and the Plan of Community Council Areas and Disposition may be examined at:-

Council Headquarters... .. ;

On the Council's website, at: [www. .... .gov.uk](http://www.....gov.uk)

An invitation is therefore extended to residents aged 16 years and over and whose name appears on the electoral register, within community council areas featured below, to petition the Council for an establishment process to be initiated:-

- .....
- .....
- .....
- .....

Requests for advice and practical assistance on the process for establishment of a community council should be directed to .....

.....  
Chief Executive,  
..... Council.

## **SECTION 5 ELECTION PROCEDURES**

Elections are the key to ensuring appropriate and effective representation is achieved for Community Councils. Elections are therefore to be encouraged and Community Councils should receive appropriate support to administer elections where needed.

This guidance outlines best practice that is recommended to be followed when undertaking Community Council elections, key elements that require to be adhered to are detailed in the Local Authority Community Council Scheme.

Procedure for elections by existing community councils

**Voting for candidates for election to a community council may take the following form:**

- Secret ballot utilising ballot papers and box.
- Show of hands

The notice declaring the intention to conduct an election, and seeking nominations of candidates for election to the community council must be publicly advertised at least twenty eight days before the date on which the election, by whatever form, is to take place. The notice must specify arrangements to allow a permanent resident of the area to be included on a community council supplementary roll if they are not listed on the Local Authority's electoral register.

**The notice must contain details of:-**

- the name and address of the person responsible for issuing and receiving nomination forms;
- the closing date and time for receiving nomination forms which must be at least fourteen days before the election takes place;
- the closing date and time for receiving application forms for inclusion in the supplementary roll which must be at least fourteen days before the election takes place; and
- the date on which elections will take place and the statement as to whether the election will be by a show of hands at a public meeting, by secret ballot, by postal ballot or by a combination of those methods.

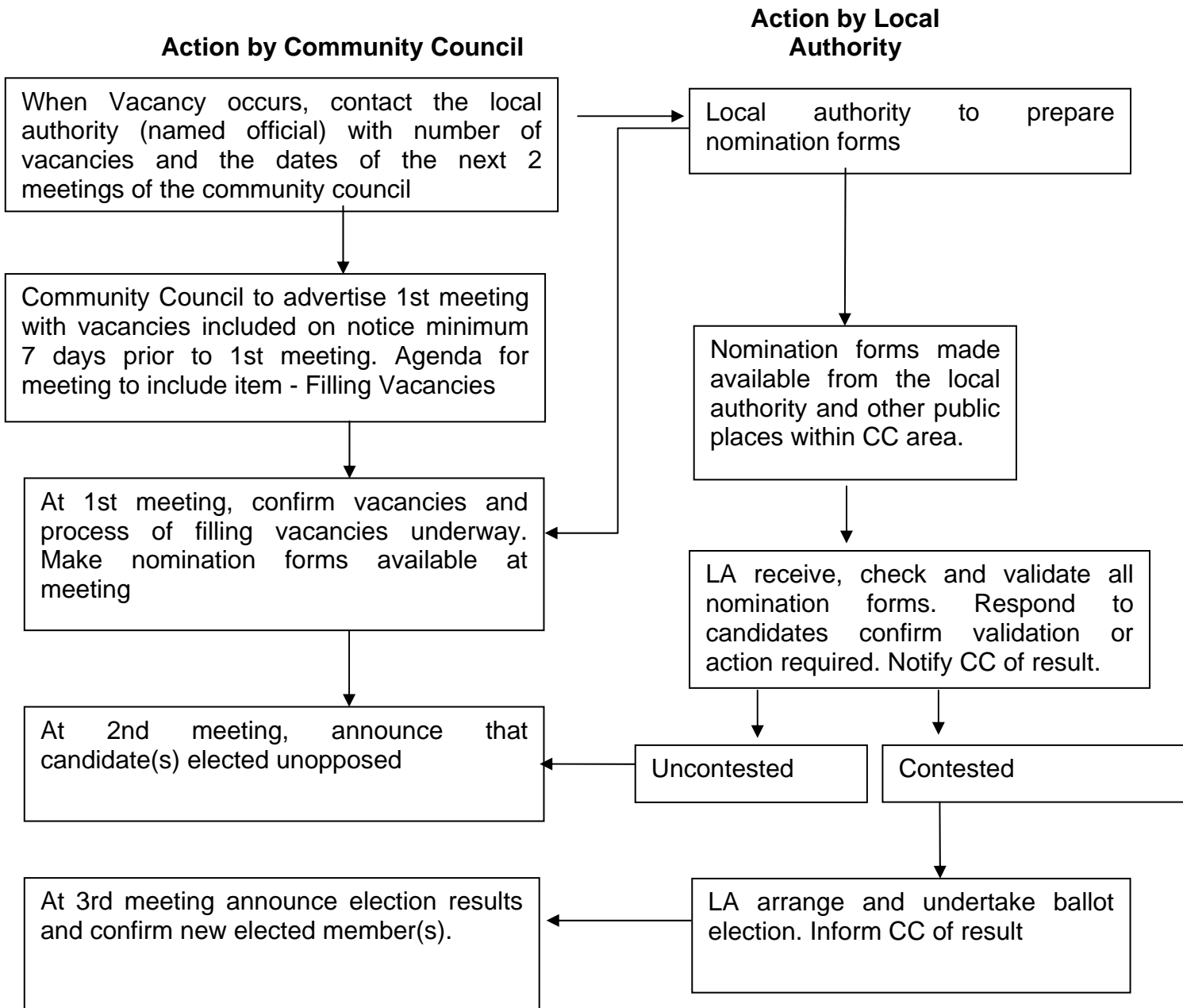
**Filling of interim vacancies**

- Community councillors are democratically elected and as such the process of appointment has to be transparent. This guidance details the process which should be followed to comply with the Council's Scheme for the Establishment of Community Councils and to demonstrate an open and democratic process.

- All community councils should maintain an up to date record of membership and vacancies occurring, for whatever reason should be reported to their local authority (named official) to allow for updating of records. Community Councils are asked to fill vacancies within 3 months.
- When a vacancy occurs, the community council should contact the local authority to commence the process of filling vacancies. The number of vacancies and the dates of the next two meetings is required to allow nomination forms to be prepared.
- In preparation for the 1<sup>st</sup> meeting of the community council for this purpose, the Notice advertising the meeting should include a section on filling vacancies and the agenda should include an item – Filling of Vacancies. The notice, as for all meetings of the community council to be posted in a minimum of 3 places at least 7 days prior to the meeting.
- Nomination forms will be prepared by the Local authority and made available for the 1<sup>st</sup> meeting of the community council. Nomination forms will be available from the local authority and can be made available locally from suitable public premises e.g. public library or from secretary / chairperson. Freepost return envelopes are provided with all nomination forms.
- The local authority will check and validate all forms and inform all candidates and the community council of the position at the closing date for nominations, i.e. if nominations are valid and if the candidates are to be elected unopposed (the same or less nominations than vacancies) or if a ballot election is required (more valid nominations than vacancies)
- If less valid nominations than vacancies are received the community council should have an item on the agenda for the 2<sup>nd</sup> meeting – Filling of Vacancies, where the results of the call for nominations will be announced and candidates elected unopposed, as members of the community council.
- If more valid nominations than vacancies are received a ballot election will be arranged and undertaken by local authority. The results of the ballot will be announced as soon as possible thereafter.
- The community council will announce the results of the election at the 3<sup>rd</sup> meeting and confirm newly elected members.



## FILLING INTERIM VACANCIES PROCEDURE – FLOW CHART



## **SECTION 6 CONSULTING WITH YOUR LOCAL AREA**

You have a responsibility to communicate with all the residents living in your community. You should do this regularly and effectively to be able to claim that you represent their views and needs, and not the personal opinions of Community Councillors. There are two parts to this duty – seeking their views and keeping them informed of your work as their elected representatives.

This is a positive duty. Fulfilling it will immensely improve the service you give to the community. Here are some examples:

- You may wish to use the ASCC Best Practice guidance on Local Authority support for Community Councils  
<http://www.ascc.org.uk/docs/data/1/Local%20Authority%20Support%20to%20CCs.pdf>
- Ensure your authority is giving you the support you need to fulfil your duty
- Include main contact details in every piece of paper, email, etc that issues from your Community Council. Always invite contact and encourage feedback. Make this a permanent “text box” in your papers.
- Whenever possible, restate the ways constituents can contact you. Make this as easy as possible for them.
- Create a website, or get a section on the Local Authority website. List contact details for all Community Councillors, including pictures where possible. Show the date, time and venue of meetings, and the agenda. Include the minutes of all previous meetings.
- Collate a database of e-mail addresses for constituents. Ask for permission to send them e-mail bulletins seeking their views and reporting your actions.
- Display Community Council contact details in all public buildings. Include information on what you do and how you can help. Ask the Local Authority to design and print posters, flyers etc.
- Secure space in any local newsletters. Publicise your work, and invite comments.
- Where practicable, get space in all publications sent out by the Local Authority such as Local Authority magazines. You might do this collectively among all your Community Councils. Make sure you collaborate what is said about your Community Council in any publication.

- Invite and encourage the local press to attend meetings. Issue press releases on matters of local interest. Seek training on media relations. Consider appointing a press liaison Community Councillor.
- Whenever you have a change of office bearers, ask the Local Authority to send out a mailing to all local organisations, public, private and voluntary, indicating the new bearers and reinforcing the status, work and approachability of your Community Council. Do the same after every Community Council election.
- Hold surgeries for the community in public venues. These could be community premises, or local supermarkets, libraries and the like. Advertise these well in advance and again closer to the time. Experiment with times, days and venues, and with the format of the surgery. Always have at least two Community Councillors present.
- Create and deploy surveys at least once per year. Ask questions about the Communities perceptions of you, of their community and their quality of life. Ask what you can do to improve the community. Find out what their priorities are. Be sure to include questions on the issues that will be important to your constituents in the future even if the details are not fully known. Get the support of the Local Authority to print, distribute and collect the survey papers. The ASCC has a model survey format you can use, if you wish to do so.
- Consider shorter, faster surveys on individual issues of significant local importance. The responses will be very important in helping you demonstrate how you speak for the community.
- Hold public meetings (in the true sense – all meetings of Community Councils are by law open to the public) whenever there is an issue of sufficient local importance. Monitor the attendance in terms of whether it representatively reflects the community – age, sex, area of residence, overall numbers and so on.
- Place suggestion boxes in prominent, busy local venues. Leave pencil and paper for ease of use. Explain these are for citizens to make comments and/or suggestions on how to tackle a local issue or generally better the community. Always respond to comments left when the person gives contact details. Regularly report comments at full Community Council meetings.
- If possible, deliver flyers or leaflets door to door. This is also an excellent way for Community Councillors to get to know their constituents, and vice versa.
- If there is a local community radio station, consider using it to promote the awareness and work of the Community Council.

- Word of mouth and informal personal contact is a common practice, and has its place. It is the least objective method of discovering the community's views and should not be relied upon wholly when the Community Council make important decisions.

**Remember:**

- Always make it easy for the public to contact you
- Always seek comments and opinions from the Community
- Always evaluate your effectiveness or otherwise regularly by results
- Never let the personal opinions of individual Community Councillors replace the views of your Community.
- Always adhere to the principles of the Councillors Code of Conduct.

## **SECTION 7    CAMPAIGNING ON THE ISSUES**

Campaigning On the Issues - How a Community Council might decide which issues it will consider, and how to pursue them.

You will be presented with a large variety of issues and problems. Some will affect a single member of the community, some the entire community and beyond. Your Community Council must try its best to make a balanced decision on what issues it will tackle and how:

- Start by applying the “community benefit” test. Your actions should be directed towards securing the most positive results for the greatest number of local people, so long as the minority does not suffer in the process. When faced with a number of issues, give first and most attention to those that affect the most people and on which you can realistically have a positive effect.
- Begin by gathering information. Decisions made without information, by prejudging the issue or by making assumptions are bad for your community and your reputation. Find out the key points and then find out what local people feel about it.
- Base your Community Council’s position on the views of or benefit to the majority of citizens.
- Be honest and realistic about whether you can do something about the issue. What influence can you have on the issue and those involved? Can you secure professional advice on technical aspects that would help you make your case? Research the person/organisation you want to influence? How can you engage with them to reach the desired outcome for the Community?
- Decide what results you want. Be specific. Know why you want each of these results and exactly how they will meet the conditions above about benefit to the community.
- Figure out how to reach these objectives, and monitor your activity. Assess how you can tell when you have achieved your objectives.
- An issue does not need to have only two opposing sides. Could your Community Council be an independent mediator bringing opposing factions together?
- Avoid allowing the Community Council to become the vehicle for any campaign that is not the evident will of the majority of Community. When that is established, maintain that position, and do not let your

Community Council become the venue for constant debate about the issue's merits. Nor should any single issue overwhelm your meetings.

- When you have determined the official position of your Community Council on an issue, you should not alter it unless there is a material change in evidence or circumstances.
- A Community Councillor who becomes publicly associated with a particular position in a way that may be seen to prejudice the Community Council on an issue must declare their interest to the Community Council and not take part in any activity associated with it.
- You may choose to appoint a special Committee to co-ordinate your action on a particular issue with appropriate delegated authority. Make sure the committee has a clear remit and set clear instructions on what it may do or not do without prior approval of the whole Community Council.

## **SECTION 8 REPRESENTING YOUR COMMUNITY**

Communities want to see how their views are being reflected in the decisions made on their behalf by Community Councils. This can be achieved in a number of ways:

- Minutes of Community Council meetings – minutes should accurately reflect the business at a meeting and the decision that was reached. This decision should be made on the basis of known community opinion (evidenced where possible) to clearly show to both the local community and other outside bodies, such as the Local Authority, that the community have been listened to and their view(s) accurately reflected.
- Community Council meetings – this is the clearest way for Community Councils to share the known views of the community and to demonstrate to those in attendance that they are being listened to.
- Public (subject specific) meetings – where these reflect areas of local concern it demonstrates to the community that they are being listened to and consulted their concerns are being acknowledged and action taken where appropriate on their behalf
- Attendance at public sector agency meetings – such attendances should be reflected in the minutes to identify where the meetings of the Community Councillors have attended on behalf of their community. Issues/opinions expressed by the Community Councillor should be reported back to the community through the Community Councils minute.
- Newsletters/public notices - good means to engage and share information but also to gather local views and identify how local views have shaped the views/work of the Community Council.
- Membership – encourage membership from across the geographical Community Council area reflecting the make up of the community it represents
- Communication channels – a Community Council should make sure that it has the communication channels in places to pass on local opinion to decision makers. These are usually established by public sector organisations who are required to consult/engage with the community but such channels may not have been set up between local groups where the representation of local opinion is just as important. Examples of communication media include notice boards, local shops, suggestion boxes and on the internet.

- Consultation – it is important for Community Councils to represent local views through various mechanisms including consultations where possible.
- All information produced should be available as widely as possible and easily accessible. It is also important that the Community Council seeks out the most effective ways to engage with the residents. Members of the public can inform the Community Council of points which they would like to be discussed and make their views known.
- When establishing views, Community Councillors should canvass local opinion but be careful not to be perceived as orchestrating campaigns unless endorsed by the Community. Community Councils are aware that it is often only a vocal minority who make representations. The Community Council should seek to represent the views of the whole Community.



## **SECTION 9 IMPROVING AND ENCOURAGING YOUTH MEMBERSHIP**

A Community Council's primary function is to ascertain and express the views of the community they seek to represent and based on these views take appropriate action. It is important that all sections of the community are properly represented and have the opportunity to participate in the local democratic process. This includes young people.

Ever since they were established, many Community Councils have struggled to attract and sustain the involvement of young people. Association of Scottish Community Council research shows that the average age of Community Councillors in Scotland is around 58 years old. Lack of youth involvement has been addressed in the new National Model Scheme where minimum age for full members with full voting rights is 16 years of age. Community Councils may also provide associate members for persons below 16, if there is local demand for this.

Article 12 in the United Nations Convention for the Rights of the Child states that young people who are capable of forming their views, should have the right to express these views freely <http://www.unhchr.ch/html/menu3/b/k2crc.htm>. The new Model Scheme provides equal opportunities for young people to be involved in local democratic decisions through their Community Councils.

Involving young people in decision-making has been subject to recent research based on many different models of participation:

- o Save the Children has published a DIY Guide on involving young people [http://www.savethechildren.org.uk/en/54\\_3186.htm](http://www.savethechildren.org.uk/en/54_3186.htm)
- o Youth Link commissioned a piece of research entitled "Your Place or Mine" which looks at the involvement of young people in community planning. <http://www.youthlink.co.uk/webs/245/documents/YourPlaceOrMinereport.pdf>
- o The Scottish Executives' Advice Note on Involving Children and Young People in community planning relates the involvement of young people to the National Standards for Community Engagement <http://www.scotland.gov.uk/Publications/2006/11/09140609/0>
- o Dialogue Youth is a new dynamic initiative offering young people an opportunity to influence the development and delivery of services in partnership with local authorities and other agencies, in addition to the Scottish youth Parliament which can provide access to resources and support to encourage youth participation in local democracy. <http://www.dialogueyouth.org/>

All these research findings and toolkits provide guidance on how to go about increasing youth involvement in the local democratic process. Local authorities should encourage Community Councils to make use of this information and provide guidance training and support in this area as required.

## **Deciding levels of youth involvement**

Community Councils should consider how they might go about ascertaining and representing the views of young people and whether partnership work with local authority and other agencies could open up young people's access to the local democratic process.

Community Councils need to be clear about the level of direct and indirect youth involvement they want in their structure, whether as full members or as co-opted or associated members without voting rights. Youth committees or subgroups or an affiliation with local Youth Forums can also be considered.

## **Direct Involvement**

Young people aged 16 years and over are entitled to stand for full Community Council membership provided that their names appear on the electoral register or can provide proof of residence/age. Community Councils can stimulate young people's interest by promoting their elections amongst Youth Groups, Youth Forums, Pupil Councils and Student Associations all of which are likely to have young people who may be interested in getting involved in the local democratic process. Local Authorities are responsible for promoting active citizenship as part of the school curriculum and this should be linked to the Community Council election process.

## **Co-options/Associate Membership**

Consideration should be given to appointing young people as associate members without voting rights, for the specific purpose of representing young people's views.

## **Local Authority Support**

Recognising that some young people may not have the confidence needed to express their views in the Community Council environment, the Local Authority may be able to provide a degree of personal support, particularly if young people are coming onto the Community Council through Youth Forum or Pupil Council routes.

## **Youth Committees/Sub-Group**

Community Councils may choose to form youth committees/sub-groups or develop links with youth forums. The remit, membership and terms of

reference for youth committees/or sub-groups would need to be agreed by the Community Council. It is noted that youth work support from the local authority or partner agencies would be needed to make this happen and the legal requirements for child protection would need to be met.

## **Indirect Involvement**

Community Councils need to consider how they will ascertain and represent the views of young people. This can be achieved through the direct involvement of young people as described above. Community Councils unable to secure the direct involvement of young people should consider other ways of how best to identify young people's needs and issues. The most obvious way of doing this is by working in partnership with Local Authority departments and other agencies that have direct contact with young people. Community Councils should be able to access and/or make use of Community Planning partners youth engagement strategies, which may offer opportunities for direct contact with young people at one level and access to their views and opinions at another level. Youth workers in particular will have the expertise and the resources required to engage children and young people in the identification of local needs and issues, in ways most suited to these target groups. This can include the use of a wider range of innovative methods that will capture young people's attention. Community Councils finding it difficult to secure the direct involvement of young people could also invite Youth Workers to advocate on young people's behalf at Community Council meetings as appropriate.

Here are a few examples of how certain Community Councils engaged with the youth in the area. These examples were taken from the responses to the Model Scheme of Establishment of Community Councils and Code of Conduct for Community Councillors consultation

- **Fortrose and Rosemarkie Community Council** arranged a special consultation for a senior Modern Studies class at their local Academy to contribute to a "Plan your Community" exercise on the community needs in the Local Plan.
- **Royal Burgh of Annan Community Council** run a Young Citizen of the Year competition – the winner attends meetings, writes articles in the local paper, switches on Xmas lights, and attends functions.
- **Queensferry and District Community Council** work closely with their local High School to ensure that young people are aware of the community council and have the opportunity to get involved. Two senior pupils join the community council each year to represent the school and raise issues of concern to young people. Through this initiative, the community council hopes to encourage young people to play an active role in their community, with the associated benefits for citizenship and leadership.

## **SECTION 10 TRAINING AND DEVELOPMENT OF COMMUNITY COUNCILLORS**

### **The present situation**

At the moment there is considerable variation between Local Authorities, for example training arranged by the Local Authority or run by external providers; study trips; supporting and mentoring; providing all members with relevant documentation and guidance booklets; training on specific topics such as licensing and planning.

### **The aim of training and development**

To enable Community Councillors to develop their individual skills, build their capacity to engage with the public agencies and acquire new skills thus allowing each member to participate as fully as possible in the work of the community council to benefit their communities.

### **Basic training needs**

- Roles and responsibilities
- Policy and procedure
- Licensing, planning and other relevant topics

### **Specific training needs**

- Chairing meetings
- Keeping financial records
- Writing minutes

### **Delivery**

- Appropriate to the needs of the individual
- Responsive to the needs of Community Councils/Councillors

### **Possible delivery of training**

- Community Council liaison staff
- Individual Local Authority departments such as Planning
- Outside agencies such as local Council for Voluntary Services (CVS)
- Community Councils themselves for example through peer support
- Association of Scottish Community Councils (ASCC)
- Planning Aid Scotland (planning applications)

## **SECTION 11 AREA FORUM MEMBERSHIP**

### **Background**

Community councils in several Local Authority areas across Scotland have formed themselves into Forums or Associations. These bodies fill the gap between the national grouping – The Association of Scottish Community Councils – and the grassroots level of individual community councils. Forums tend to receive support from the Local Authority, either through grant funding, or more typically through in-kind support in the form of staff time, venue provision, and administrative resourcing.

### **Why have a Community Council Forum?**

A Community Council Forum can be a support group for all community councils within a Local Authority area - particularly those who are newly established - providing an informal source of knowledge and experience. It can also enable its constituent members to exchange information, and to identify common issues.

Forums can provide a channel for Community Councils to act together.

### **What does a Community Council Forum do?**

The typical aims of a community council Forum are:

- to promote the role, effectiveness and status of Community Councils;
- to facilitate the flow of information between Community Councils within an area;
- to be a voice for community councils within a Local Authority area
- to provide a forum for discussion of matters of common interest to Community Councils
- consult with representatives of community councils in other areas on matters of mutual interest.
- to provide representatives to regional and national events concerning community councils
- to work with the Local Authority and other public agencies.

## **SECTION 12 PLANNING**

**This section provides advice for community councils on their enhanced role in the new planning system.**

### **Development Management**

This section includes advice on development management as it affects community councils. It mainly focuses on the introduction of a whole new system of pre-application consultation with communities and making comments on planning applications within the community council area. It also covers other changes to the planning system introduced by the Planning etc. (Scotland) Act 2006 which impact on community councils.

Further information on the planning process can be found in circulars prepared by the Scottish Government which can be found at <http://www.scotland.gov.uk/Topics/Built-Environment/planning/publications/circulars>

### **Pre-application requirements**

There are two main changes to planning legislation before a formal application is submitted to the council. They relate to pre-application consultation with communities and design / design and access statements

### **Pre-application consultation (PAC)**

This new law puts in place a requirement for prospective applicants to consult communities on applications for planning permission (including planning permission in principle) for national or major developments. The objective of pre-application consultation is for communities to be better informed about major and national development proposals and to have an opportunity to contribute their views before a formal planning application is submitted to the planning authority. Its aim is to improve the quality of planning applications, mitigate negative impacts where possible, address misunderstandings, and air and deal with any community issues that can be tackled. The proposals, if adjusted, should benefit from that engagement and assist the efficient consideration of applications once submitted.

Where such consultation is required, the prospective applicant must provide to the planning authority a 'proposal of application notice' at least 12 weeks before submitting an application for planning permission. A copy of this notice must be sent to relevant community councils. That notice must include certain basic information about the proposal and also what the applicant is intended to do to consult with the community.

The council has 21 days to respond if it considers that it wants to see additional notification and consultation beyond the minimum set out in law. The minimum set down is to consult relevant community councils and hold at

least one public event which is advertised in the local press. The advert will give people information about the consultation and must give at least 7 days notice of the event. The advert should also include an opportunity to make comments in writing to the prospective applicant.

The prospective applicant is under no obligation to take onboard community views, or directly reflect them in any subsequent application. It is important for communities and to follow their interest in a proposal through to the planning application stage, which provides the statutory opportunity for community councils to make representations on proposals before the planning authority.

When the developer brings forward the application, then they must prepare a report as to what has been done during the pre-application phase to comply with the statutory requirements for PAC and any requirements set out in the planning authority's response to the proposal of application notice.

The purpose of the PAC report is to demonstrate what the prospective applicant has done to comply with statutory minimum requirements on PAC and any further requirements set by the authority in their response to the proposal of application notice.

### **Consultation on design / design and access statements**

While there is no legal requirement to consult on the contents of a design or design and access statement, where any consultation has taken place, the developer must record it in the statement and set out what account has been taken of it.

### **Advice on how to make comments on a planning application**

Anyone (individuals, groups or organisations) can make comments or objections on any planning application: you might want to support an application or you might want to object to it. These comments for or against a proposal are referred to as "representations".

The purpose of the following sections are to give advice on

- consultation arrangements
- the procedure for making representations;
- the deadline the law sets for making representations;
- what "material considerations" will influence the Council's consideration of the application;
- how your representations are handled by the Council;
- how to get help in making representations
- how you will be informed of the decision.

## Consulting the community council

Guidance from the Scottish Government has recognised that community councils are as individual as the areas they cover, so their approach to consultations and their capacity for response will vary a good deal. Each planning authority liaison procedures should acknowledge local variations and be tailored to the characteristics of the community councils and local areas involved. Careful soundings and discussion in advance should help authorities to devise effective consultative arrangements.

You may therefore already have consultation arrangements in place with your council. In light of changes to the planning system, there may be an opportunity to re-visit these arrangements to ensure that they reflect the enhanced role that community councils will play in the new planning system.

The law sets out that community councils are statutory consultees in two scenarios:

- where the community council, within 7 days of receiving the weekly list containing information about an application, informs the planning authority that it wishes to be consulted; and
- where the development is likely to affect the amenity of the community council's area.

Councils must give community councils at least 14 days to consider the application before they determine the application.

### Procedure

Your council will not consider verbal comments on applications, so if you want to make representations on an application, it should be in writing. The usual ways of making representations are by letter, petition or email.

### Letters

Representations should be signed, dated and have an address for an acknowledgement to be sent to. They should clearly state the grounds on which the representation is made. Pre-printed or standard copied letters of representation will be accepted for consideration, if they are individually addressed, signed and dated. These details are required so that the Council can send you, or the persons making representations, individual letters of acknowledgement that it has received the representation.

You should note that any comments you make will **not** be kept confidential: anyone will be able to see your letter of representation. Anonymous letters of representation will not be considered.

Letters may not be accepted if they are anonymous or do not clearly have the name and address of the correspondent.



## Petitions

Petitions for or against a proposal may be submitted. These should be accepted and considered if

- Each page of the petition is headed with the objective of the petition;
- Signatories provide their name and addresses in a legible fashion; and
- The name and address of the petition organiser is included, so that the Planning Authority, i.e. the Council, can send a letter of acknowledgement that it has received the petition.

## Email

The Council will usually accept email representations on proposals. As with other objections, the grounds of representation must be included. You should also give your name and address. This is required so that the Council can see any physical relationship between your property and the application site.

E-mail representation will generally be acknowledged via email only. As with other representations, these will **not** be kept confidential.

## Note

Letters, petitions or emails containing any material deemed to be racist or offensive will not be considered. The writer should be advised of the concerns and asked to amend their letter or it will be disregarded. The material may be passed to the police to determine whether any further action should be taken.

## Deadlines for Making Representations

Under planning legislation, there are certain timescales within which a planning authority cannot make a decision on a planning application. These are either **14** or **21** days from the date of notification to neighbours or the advertisement in a local paper, depending on the particular circumstances of the proposal. As councils are under considerable pressure to deal with applications within the statutory period - usually two months, though it can be four months - it is very important that you should make any representations as soon as possible.

Representations which contain material considerations may be accepted any time before an application is decided on. Representations received after an application has been decided will not be taken into account by a Council.

## **What “Material Conditions” may influence the Local Authority’s consideration of the application?**

Decisions on planning applications must be made in accordance with the development plan unless material considerations would indicate otherwise. What is, or isn’t a material consideration and the weight it should be given is a matter for each application. If you want to object, your objection is not considered material if it isn’t made for legitimate planning reasons. The Council may agree that applications where non-material objections have been submitted should not be required to be reported to Committee for decision.

Here are some examples of potential material and non-material planning objections:

### **Material Planning Grounds**

- Contrary to the Development Plan
- Appearance (design, materials, scale etc)
- Traffic, parking and access problems
- Residential amenity (noise, overshadowing, overlooking, developing too much garden space)
- Effect on Listed Buildings and Conservation Areas

### **Non-Material Planning Grounds**

- Loss of a private view over someone else’s property
- Loss of the value of your property
- Breaches of feu\* restrictions or other such burdens on the title of the property
- Possible fire hazard
- Competition amongst shopkeepers
- Matters covered by other legislation e.g. Building Standards (structural stability etc) where there’s no overlap in legislation

Non-material objections shouldn’t influence the Council’s decision on the application, so it’s important that you only consider bringing forward representations that are focussed on planning issues in this way they may be considered as a material consideration.

It is for the planning authority to decide what relative weight is to be given to competing material considerations and in turn how these may influence a decision which should otherwise be made in line with the development plan for the area.

A further explanation of material considerations and a list of what matters may be considered as material is set out in Annex A to Circular 4/2009; Development Management Procedures  
[HTTP://WWW.SCOTLAND.GOV.UK/TOPICS/BUILT-ENVIRONMENT/PLANNING/PUBLICATIONS/CIRCULARS](http://www.scotland.gov.uk/topics/built-environment/planning/publications/circulars).

## **How Your Representations Are Handled**

If you make representations to the Council in accordance with the above guidance, you should receive an acknowledgement (unless the application has already been decided). The Council will take your comments into account if they are material considerations.

Your representation may be copied to the local Councillors whose Ward includes the application site. It will also be summarised in the report of handling by the planning officer dealing with the application and the original text of your representation may be available at Committee so that the members of the Committee can examine it, if they wish to. The new report of handling will be available on the planning register once the application has been determined.

Once the Council has decided the application, you will be notified of their decision in writing and where a copy of the decision notice can be inspected.

Councils receive a great number of applications every year and planning officers will not necessarily enter into correspondence with objectors about a proposal prior to its assessment, nor necessarily the way a decision was reached after an application has been determined. The way an application has been assessed is documented in any Committee report prepared. This is, of course, available for public inspection, principally by viewing the published minutes of the Committee meeting. These are usually available on the Local Authority's website. There are now requirements for reports of handling to go on planning registers - which might also be committee reports.

## **How to Get Help in Making Representations**

There are various ways you can get help in understanding the planning process and making your views known about an application. For general advice on the planning process, you should contact your council.

If you want further details on a particular application, a copy of the plans will be available on the Planning Register for inspection at the Local Council's Planning Department or possibly on their web site. Please note that planners will be happy to clarify details of a proposal with you, but will not provide you with grounds of objection.

For free advice on planning matters, you might also wish to consider contacting Planning Aid for Scotland (0131 220 9730). This organisation is staffed by planners, but is independent of your council. Planning Aid has a website, at [www.planningaidscotland.org.uk](http://www.planningaidscotland.org.uk).

Below is an example list of common objections which may be regarded as competent by Councils depending on the circumstances of the case.

#### Competent Objections to New Commercial Properties

- It is a valid objection that there are too many in a particular area. For example, restaurants: too many already (list them)
- Ventilation shafts and flues are noisy and distribute smells over a wide area.
- Anti-social aspects: commercial rubbish collection and deliveries from 5.30am to 7.30am, noise of bottles, customers on street when close at up to 3.30am, licensed premises (any objections to those)
- Additional traffic introduced into residential area.
- Deliveries in congested areas, or residential streets.

Any other reasons you may have can always be listed but some may not be considered if they are not **material planning concerns**. Other complaints about tenant behaviour, property management, etc may be conveyed to relevant Local Authority Department and ask for any telephone complaint to be recorded.

#### **The Planning (Scotland) Act 2006**

The planning system is changing in 2009. New legislation and procedures came into force in April and August 2009, implementing most of the Planning etc (Scotland) Act 2006. Below, there are brief summaries of the main changes.

#### **Local, major and national developments - the Hierarchy of Developments Regulations**

Applications are divided into different categories to ensure that they are dealt with in a way appropriate to their scale and complexity and allowing decisions to be taken at the most appropriate level. There are 3 categories in the hierarchy of development to which all developments are allocated:

- national development;
- major development; and
- local development.

National developments are described in the National Planning Framework (NPF2) which was published in June 2009. Major developments are set out in the Hierarchy Regulations. All other development is considered as being local development. Applications for major development will generally be

determined by the Planning Committee and include (though this is not a comprehensive list):

- Development classed within Schedule 1 in the Environmental Impact Assessment Regulations;
- Housing development of 50 or more units, or on sites of more than 2 hectares;
- Business, Industrial or storage and distribution uses where the gross floor area is greater than 10,000m<sup>2</sup>, or the site more than 2 hectares;
- Other Development, including combinations of the above classes, with gross floor area over 5000m<sup>2</sup>, or on a site of 2 hectares or more.

As set out above, applications for planning permission for 'national' and 'major' development must be accompanied by a Design and Access statement. This describes the design principles and concept and considers issues of access for the disabled. Applications for planning permission (including planning permission in principle) for national and major development must be subject to pre-application consultation with communities.

### **Dealing with planning applications - the Development Management Procedure Regulations**

Of particular relevance to community councils are the sections relating to **Pre-application consultation** and these are discussed above but in addition, the following may also be of interest:

- **Making planning applications:** Applicants can use local forms until a standard national form available, or applicants may use a Scottish Government electronic form;
- Encouragement is given to applicants to look beyond the minimum information requirements and discuss information requirements beforehand with the planning authority;
- **Planning permission in principle** (PPP) replaces outline planning permission. PPP requires no plans other than a location plan (it is for the developer in this first instance how much detail they wish to provide); does not require design and access statement, but does require PAC if it is a major or national development;
- **Reserved Matters applications** have been replaced by the requirement for applications to agree conditions on PPP;
- **Design / Design and Access statements:** required for applications for planning permission for major and national development with design statements required for applications for local development for new buildings in sensitive areas (e.g. Conservation Areas). There are some exceptions to the general requirement, including for householder developments and changes of use. Statements should describe design concept and access measures for disabled. Planning Advice Note (PAN) 68 gives further advice on preparing such statements. This can viewed at the following weblink - <http://www.scotland.gov.uk/Publications/2003/08/18013/25389>

- **Neighbour notification to be carried out by the planning authority:** 21 days are given for representations, rather than the existing 14 days. **Where pre-application consultation has taken place objectors must still make representations in relation to the application;**
- **List of extant applications** is a running list of applications and is required to be published, including online. A list is also to be published of 'proposal of application notices' submitted as the initial stage of pre-application consultation. These are in addition to weekly lists sent to Community Councils. The application register must include a map based index.
- **Reports of handling** are required to be issued with decision notices. These provide information on processing of the application, including how representations and the main issues have been dealt with;
- **Time periods for determination:** 4 months for major and national; 2 months for the remainder. These don't apply where the planning authority and applicant have agreed to extend the time period.
- An opportunity for a **Pre-determination hearing** is required for major developments that are significantly contrary to the development plan and national developments. These must be held in front of a Council committee and applicants and objectors/representors may speak. A final decision is made on the application by the full council.
- **Site Notices:** must be displayed for the duration of development, for national, major and certain specified development which is likely to have wider impacts on amenity. The Regulations provide a standard pro forma for this.
- **Duration of permission:** This has been reduced to 3 years for full planning permission. For Planning Permission in Principle the period is 2 years from the grant of the last matter requiring further approval as specified in conditions. Further applications for such further approval must generally be within 3 years of PPP. Planning authorities can direct different durations for planning permission or planning permission in principle.

## **Schemes of Delegation and Local Review Procedure Regulations**

Local authorities are required to prepare a new scheme of delegation for applications within the class of local developments.

The local authority must not include in this new scheme applications in which the local authority has an interest or which is made by a member of the planning authority, but otherwise within the category of local developments can tailor their scheme to suit their own area and circumstances. Authorities will continue to have powers to take other types of delegated decisions under the Local Government Act. And complex or controversial applications will still be dealt with at committee.

These new schemes of delegation link to a new part of the system on Local Reviews.

In cases where an officer has taken a decision on a local development under the terms of the new scheme of delegation, should the developer want to challenge it, they will have the right to request a review through the Local Review Body.

This is a marked change as currently all appeals, including on the most minor matters are made to Scottish Ministers. This change endorses the principle that decisions on local matters should be taken locally as appropriate. The review body will focus on local developments.

The local review body will consist of a small group of members supported by officials. The review body will be able to change or endorse a decision taken by an officer of the Council.

The process is front-loaded so that the relevant information is available for people to see and consider at the outset rather than late in the process. The 2006 Act restricts the extent to which new information can be introduced as part of a review unless it is new; there are exceptional circumstances why it could not have been provided when the application was considered; or raises material considerations.

The local review body review the material that was before the authority's officials during the planning process along with other representations and information supplied in the course of the review process in a straightforward way.

## **Appeals**

As with local reviews, the time period for lodging an appeal has been reduced to 3 months from 6. This should reduce the period of uncertainty amongst communities and authorities as to whether the applicant intends to challenge the Council's decision.

The appeal process is also intended to become less adversarial with the person appointed by the Scottish Ministers being able to decide the most effective means of examining each case; i.e. whether it needs further procedure beyond the initial exchange of views, to inform the decision, such as written submissions, hearings or a more formal inquiry session, or a combination of any of those methods for gathering information. The reporter will be able to determine what matters they need further information and the most effective way to get that information.

Regulations require that the appellant should set out all the matters they intend to raise and supply supporting documentation when making the appeal. Taken together with the provisions in the 2006 Act that restrict variation to the proposals at the appeal stage, this supports the Government's intention that the planning process should be front-loaded. New material will not be allowed to be introduced during the appeal, unless the party can

demonstrate it could not have been introduced earlier in the process, or it arises as a consequence of exceptional circumstances.

Further information on these matters are available in Circulars 4/2009: Development Management Procedures; 5/2009: Hierarchy of Developments; 6/2009: Planning Appeals and 7/2009: Schemes of Delegation and Local Reviews.

### **Further Reading**

A full range of Planning publications are available via the Scottish Government website, at this weblink:

<http://www.scotland.gov.uk/Topics/Built-environment/planning/publications/>

The Planning Aid Scotland website also contains a range of useful publications, including the SP=EED guidelines (Scottish Planning=Effective Engagement and Delivery). This is aimed at better community engagement on Planning issues. The document is available in PDF format at this weblink: <http://planningaidscotland.org.uk/assets/File/SPEED.pdf>



## **SECTION 13 CORE FUNDING FROM LOCAL AUTHORITIES**

Resourcing Community Councils is an issue where Local Authorities undertake arrangements to suit local circumstances.

Some local authorities provide CCs in their area with part-time clerks, office space and significant administration budgets. That is a practical model to follow where responsibility and decision making is devolved to Community Councils.

### **Grants - Acceptable Areas of Expenditure**

When a community council is established it is awarded a start-up grant to cover initial administrative expenditure. In addition to this a community council once established will receive an annual administrative grant. Further to this when the community council has been established the administration grant is paid annually, on submission of audited annual accounts covering all income and expenditure of the community council for the previous financial year, minutes and current bank statements.

The purpose of the administrative grant is to cover the costs in administering community council business. Examples of such costs are detailed below:

- Insurance
- Auditors' fees
- Production and circulation of minutes, agenda and annual reports
- Stationery
- Photocopying
- Postage
- Travel costs
- Telephone costs
- Accommodation lets
- Affiliation fees
- Subscriptions
- Bank charges
- Advertising
- General Publicity and promotional activities.
- Consultation with the community.

Community councils may generate income from sources other than the Local Authority. This income may also be applied towards expenditure not contemplated by the grants awarded by the Local Authority. The accounts of the community council will however disclose all income from whatever source it is obtained and will show all expenditure even where it is not simply the expenditure of the Local Authority grants. Where an application is made to the Local Authority for grant assistance the whole financial circumstances of the

community council will be considered to establish free and committed funds before the application for grant assistance is dealt with by the Local Authority.

### **Accounting Procedures – Cash**

- Each community council should have a cash book and all income and expenditure should be recorded in it. The date, description, amount and receipt number should also be recorded.
- The community council should nominate three unrelated office bearers to act as signatories to the community council bank accounts. All cheques and withdrawals should require two from three signatures. Any changes to authorised signatories should be approved by the community council.
- The level of cash held should not be excessive and should be in proportion to the monthly expenditure
- Banking should be made intact. All income received should be banked and should not be used to meet expenditure. If funds are required for incurred expenditure they should either be paid by cheque or alternatively cash should be withdrawn from the bank.
- Once a banking has been made the stamped bank pay-in slip should be retained and checked against the bank statement or bank book to ensure that the income has been credited correctly.

### **Accounting Procedures – Expenditure**

- All expenditure must be approved in advance by the community council.
- All expenditure must be accompanied by proof of purchase, either an expenditure voucher or receipted invoice.
- Receipts should be given a sequential number and filed accordingly.
- Details of the expenditure should be recorded in the cash book as soon as the expenditure is incurred. Where a receipt is not available, the person making the purchase should complete a form stating the nature of the expenditure. The form should be authorised by a member of the community council committee.
- A current account will normally be used for day to day transactions with a further deposit and/or saving account, as required, so that interest may be attracted on accumulated funds.
- The treasurer should await the bank statements and once received should carry out a bank reconciliation to ensure that the bank balance

agrees with the balance recorded in the cash book. All bank statements should be retained.

- Where petty cash is issued all petty cash vouchers should be signed by the person requesting the money and countersigned by the treasurer or other authorised signatory - this must not be the person who is requesting the expenditure. All receipts for items of expenditure should be retained and attached to the appropriate petty cash voucher.
- Reimbursement of travel expenses should only be available to persons on official community council business. Claimants should submit a detailed record of dates, times, destination, reason for travel and mode of transport. Reimbursement of travel expenses (for example bus, taxi, train, parking fees etc) should only be awarded if accompanied by an appropriate receipt.
- If the community council requires telephone calls to be made, reimbursement of expenses can be made at the discretion of the community council. The person making the claim should submit the itemised telephone statement highlighting the calls claimed. Reimbursement will be authorised by the community council.

### **Accounting Procedures - Annual Accounts**

The following paragraphs merely reinforce income and expenditure matters dealt with earlier in this guideline.

- An annual income and expenditure statement of all accounts including all income and expenditure must be prepared at the end of the community councils' financial year and must be examined by a person unconnected with the fund.
- The audited accounts must be presented to the community council and in course a copy passed to the Local Authority officer.
- An example of an annual income and expenditure statement is detailed in the attached appendix. All of the information within the account is fictitious and used only as a guide on how to prepare accounts.

### **Accounting Procedures – Inventory**

The community council must maintain an inventory detailing all the assets of the community council. The inventory should be updated on an ongoing basis for additions and deletions an example of an inventory is over the page.

**COMMUNITY COUNCIL  
STATEMENT OF ACCOUNTS**

**Income Expense Account  
for period of \_\_\_to\_\_\_**

	£'s	£'s
<b>Balance brought forward</b>		
<b>Income</b>		
Admin Grant	0.00	
Discretionary Grant	0.00	
Bank Interest	0.00	
		<u>0.00</u>
<b>Expenditure</b>		
Insurance	0.00	
Accommodation Costs	0.00	
Auditors Fees	0.00	
Subscriptions	0.00	
Travel Expenses	0.00	
Publication of Minutes & Agendas	0.00	
Publication of Newsletters	0.00	
Stationery	0.00	
Photocopying	0.00	
Postage Costs	0.00	
Telephone Costs	0.00	
Other Expenses	0.00	
Other Expenditure	0.00	
		<u>0.00</u>
		<u><b>Balance Surplus</b></u>
		<u><b>0.00</b></u>
Represented by:		
Cash In Bank		
Cash In Hand (Treasurer's Float)		
		<u><u>0.00</u></u>

As Prepared by \_\_\_\_\_

Examiner's Details

Name  
Designation  
Organisation  
Address  
Telephone

The above statement has been compiled from the available books and records and

explanations.

Signed \_\_\_\_\_ (Examiner)  
Date \_\_\_\_\_

\_\_\_\_\_  
Chairperson's Signature Date \_\_\_\_\_

Treasurer's Signature \_\_\_\_\_ Date \_\_\_\_\_

## **SECTION 14 NON-FINANCIAL SUPPORT FROM LOCAL AUTHORITIES**

### **Resourcing in Kind**

The amount of financial grant required by a CC will, to some extent, depend on what potential costs are met by the local authority directly.

All of the following support resources are supplied free to CCs by some local authorities. Where practicable Local Authorities are encouraged to provide adequate support to their Community Councils, inform of examples below:

- Meeting space (in authority buildings, or if elsewhere paid by LA directly).
- Accommodation for Community Councillors to hold surgeries.
- Photocopying.
- Typing of Minutes.
- Distribution of Minutes and other meeting papers.
- Dedicated space on LA website.
- Public Liability, Defamation and Personal Injury Insurance cover (ASCC).
- Corporately pay the Data Protection Notification Fee for all CCs
- Assist CCs with the process of notification to the Information Commissioner's Office.
- Access to Council reprographics and other office facilities (hot desking).
- Laptop Computer for each CC
- At-home internet access for a designated officer of each CC.
- IT access for Councillors with no home availability (At libraries/community facilities).
- Access to public notice boards, and other LA information systems.
- Dedicated space in local authority publications, and community TV and radio.
- Access to ring-fenced grant fund, for local projects.

## **SECTION 15 CONSULTATION AND DECISION MAKING PROCESSES**

### **Establishing a mechanism for feedback**

Civic engagement is central to modern democracy and as part of the civic engagement process. The Scottish Government, and other public bodies, should ensure that individual Community Councils are consulted directly at the earliest possible stage in the development of policy and the decision making process on local issues.

Any consultation document should include: -

- an executive summary;
- a clearly defined purpose leading to the consultation process;
- clear objectives required from consultation process;
- any document should be comprehensible, concise, jargon free and widely accessible;
- specific questions in relation to the consultation exercise;
- minimum response period of 12 weeks – longer if over a holiday period;
- proposed timescale for outcomes; and
- feedback options including a choice of preferred format.

Irrespective of whether formal or informal, once the consultation process has been completed, and the responses analysed, then a summary of the responses, including any resulting proposals for change or actions, should be made available in a variety of formats, such as:

- the organisation's website;
- in paper format as requested;
- through face to face sessions;

At the onset of any consultation process, each organisation should ensure that the lead officer or staff member, responsible for the consultation exercise is also responsible for co-ordinating the dissemination of feedback information which should be made available in a range of appropriate formats. The feedback should provide an analysis of the responses received and an explanation on proposals for change in light of the consultation process. The outcome of consultation exercises should be made available by the consulting body.

There should be a resistance to publishing feedback as glossy brochures or the indiscriminate circulation of information in paper format. The analysed responses and proposals, which result from the consultation process, should be freely available.

## **SECTION 16 DATA PROTECTION**

### **Introduction**

The Data Protection Act 1998 governs the use of personal data. It imposes important obligations on any persons or organisations, including Community Councils, which acquire, store, use or deal with personal data either electronically or within certain paper records. Whilst failure to comply with the Act's requirements can have serious legal consequences, Community Councillors should be reassured that most breaches are likely to simply require remedial action to be undertaken and would not be deemed to be criminal offences.

### **Personal Data and Sensitive Personal Data**

- Special rules govern the processing of sensitive personal information.
- "Personal data" means any information by which it is possible to identify a living individual (referred to in the Act as a "data subject"). Information on individuals who have died, or on companies or other corporate bodies, is not personal data
- "Sensitive personal data" means information regarding such things as an individual's racial or ethnic origin, political or religious beliefs, physical or mental health, sexual life and commission of a criminal offence. Special rules apply to sensitive personal data and Community Councils should seek advice if they hold any sensitive personal data (other than that which is in the public domain such as the political affiliation of local elected members or the denominations of clergy).
- The Act regulates the processing of personal data. "Processing" means acquiring data, storing it, amending or augmenting it, disclosing it to third parties, deleting it – i.e. doing anything with it at all. An individual or organisation which processes personal data is known as the "data controller".
- The Act applies to personal data which is held in any kind of storage system, whether electronic or manual.

### **The Data Protection Principles**

The Act sets out some basic rules regarding processing personal data, known as the Data Protection Principles. These include –

- Data must be processed fairly and lawfully;



- Data must be obtained for one or more specified and lawful purposes, and must not be processed in any manner incompatible with those purposes;
- Data must be adequate, relevant and not excessive;
- Data must be accurate and kept up to date;
- Data must not be kept longer than necessary;
- Data must be processed in accordance with the data subject's rights;
- Appropriate technical and organisational measures must be taken against the data's unauthorised or unlawful use and their accidental loss, damage or destruction.

## **Data Subjects' Rights**

The Act gives important rights to data subjects, including the right –

- To be informed that their personal data is being processed by the data controller;
- To be given access to their personal data;
- To require their personal data not to be used for direct marketing purposes;
- To require the data controller to stop any processing of their personal data which is causing substantial and unwarranted damage or distress.

## **Contravention of the Act**

- A breach of the Data Protection Principles is not a criminal offence in itself although this may change in the near future. Current offences include the unlawful obtaining, disclosing or selling of information, a failure to follow a Notice from the Commissioner and the failure to notify the Commissioner of processing which takes place. These offences are punishable by the payment of a fine.
- Compensation may be payable to any person who suffers damage and distress as a result of a contravention of the Act. Such compensation is awarded by the Court.

## **The Information Commissioner**

The Data Protection Act is regulated and enforced by the Information Commissioner, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF and applies throughout the UK. The Commissioner has powers under the Act to issue Notices to data controllers, requiring them to provide him with information regarding their compliance with the Act, or to carry out certain steps under the Act; as indicated above, failure to comply with a Notice is a criminal offence. He also has power to carry out investigations, including the power to enter data controllers' premises.

The Commissioner publishes detailed guidance on various aspects of the Act on his website at [www.ico.gov.uk](http://www.ico.gov.uk). Advice can also be obtained from the ICO's

Scottish office in Edinburgh at [Scotland@ico.gsi.gov.uk](mailto:Scotland@ico.gsi.gov.uk) or 0131 225 6341 (The Information Commissioner should not be confused with the Scottish Information Commissioner, who enforces the Freedom of Information (Scotland) Act 2002.)

## **Notification to the Information Commissioner**

All data controllers are obliged by the Act to notify the Information Commissioner of the classes of personal data which they are processing, the purposes for which they are processed and the recipients to which the data may be disclosed. Community Councils only need to notify if personal data are processed electronically. This information is included in the Commissioner's Register of Notifications, which is open to public inspection. Unless within an exempt category, it is a criminal offence to process personal data without first notifying the Commissioner. It is likely that only a few Community Councils will be covered by an exemption.

## **Complying with the Data Protection Act**

Community councils must comply with the Data Protection Act because they process personal data as defined under the Act. For example, it is likely that the Secretary of Community Councils will hold electronic records of contact details of its members, of some local residents and of elected members or employees of the local authority. These may be within databases, Minutes of meetings or in correspondence

In order to comply with the Act, Community Councils should take the following steps:

- Nominate someone (e.g. the Secretary) as the person responsible for data protection.
- If collecting personal data from individuals, you should explain the purpose for which the data is being collected as well as giving them the name of the Community Council and the name of the person nominated as being responsible for data protection.
- Ensure that personal data are properly protected – if data are stored electronically, ensure that they are password-protected and (in sensitive cases) encrypted. If they are stored manually (e.g. a paper filing system), ensure that the files are kept in a secure place.
- Ensure that personal data are never disclosed to any unauthorised third party, whether accidentally or on purpose. Do not discuss personal issues in public or leave papers or computer files unsecured at home.
- Periodically review the personal data that are held, making sure that they remain accurate and up to date – where necessary dispose of or shred data that are no longer needed.

- **VERY IMPORTANT:** notify the Information Commissioner of the personal data which are being processed, the purposes for which they are processed and the recipients to which the data may be disclosed. It is a criminal offence to process personal data without having first notified the Commissioner.
- Before notifying, identify what personal data are held and who the data subjects are; ascertain the purposes for which the data are to be used; identify where and how the data are stored or recorded. This will assist in completing the notification template.
- Notification can be done on-line at the Commissioner's website, by going to [www.ico.gov.uk/what\\_we\\_cover/data\\_protection/notification.aspx](http://www.ico.gov.uk/what_we_cover/data_protection/notification.aspx) and then by following the step-by-step directions given there. The website includes standard templates for different types of organisations, including a set of local and central government templates; this includes, in turn, standard template N958 – Scottish Community Council. By clicking on that template, the standard classes and uses of personal data for Community Council are automatically included in the notification. Check the details and modify the form before printing it off, signing and posting to the Commissioner.
- Alternatively, a Community Council may send the required information, as shown below, to - [notification@ico.gov.uk](mailto:notification@ico.gov.uk), and ask for a template for a Scottish Community Council to be completed. The Information Commissioner's Notification Department will then provide a draft for the Community Council to approve/amend as necessary.
- Community Councils can also phone the Information Commissioner's Notification Helpline on **01625 545 740** and ask for a draft template for a Scottish Community Council to be completed. The required information (as shown below) should be given over the phone.

The information needed is as follows:

- Community Council name
- Community Council address
- Contact name and role in the Community Council (i.e. Chair/Secretary/Treasurer)
- Contact address
- Contact telephone number
- Contact fax (if available)
- Contact e-mail address

Notification currently costs £35 and must be renewed annually.

## **SECTION 17 LICENCE APPLICATIONS**

### **LIQUOR LICENSING - CONSULTATION WITH COMMUNITY COUNCILS**

#### **New System**

The Licensing (Scotland) Act 2005, will fully replace the 1976 Act with effect from September 2009. Transitional arrangements are in place covering up to that date. The 2005 Act contains new provisions about notification of applications by the Board and objections.

Link to the 2005 Act

[http://www.opsi.gov.uk/legislation/scotland/acts2005/asp\\_20050016\\_en\\_1](http://www.opsi.gov.uk/legislation/scotland/acts2005/asp_20050016_en_1)

#### **The 2005 Act ensures that:**

- Licensing Boards are required to notify the Community Council of any new premises licence application or application to substantially vary how a premises operates;
- Community Councils are able to object or offer representations to an application and request Licensing Boards hold a hearing to review a licence if it is operating outwith the premises licensing conditions or the licensing objectives;
- Local Authorities employ a Licensing Standards Officer whose duties include mediating with licensed premises to try and solve problems including those raised by Community Councils; and
- Licensing Boards are required to involve people resident in the locality in consultation on a Board's Licensing Policy Statement or overprovision assessment, which could include reference to how it intends to involve Community Councils in Licensing Board matters. .

## **SECTION 18 EQUALITY DIVERSITY AND COMMUNITY COUNCILS**

### **Introduction**

The purpose of this section is to:

- make clear why Community Councils need to be aware of the general responsibilities relating to the Race, Disability and Gender Equality Duties; and
- how they can play a significant part in promoting and supporting equality in the community.

### **Background**

The Race Relations (Amendment) Act 2000 [http://www.opsi.gov.uk/acts/acts2000/ukpga\\_20000034\\_en\\_1](http://www.opsi.gov.uk/acts/acts2000/ukpga_20000034_en_1) and the Local Government (Scotland) Act 2003 [http://www.opsi.gov.uk/acts/acts2000/ukpga\\_20000034\\_en\\_1](http://www.opsi.gov.uk/acts/acts2000/ukpga_20000034_en_1) as well as various European Parliament laws gave further duties and responsibilities to Community Councils.

The main purpose of a Community Council is to find out the views of their community and clearly express them to the Local Authority and other public organisations such as the NHS. Some also find themselves involved in fundraising, organising community projects and other such activities.

Given the above, Community Councils therefore have both a duty and responsibility to ensure that they represent all within their community irrespective of race, disability, gender, age, sexual orientation, religion and/or belief.

Community Councils must act in accordance with the Equality Scheme(s) of the relevant Local Authority.

This section deals with the general responsibility relating to the race, disability and gender duties which are already in force.

### **Race**

#### Responsibilities

In carrying out their functions Community Councils should:

- eliminate unlawful racial discrimination;
- promote equality of opportunity; and
- promote good relations between people of different racial groups.

## **Disability**

### Responsibilities

In carrying out their functions Community Councils should:

- promote equality of opportunity between disabled people and others;
- eliminate unlawful discrimination;
- eliminate harassment of disabled people that is related to their disabilities;
- promote positive attitudes towards disabled people;
- encourage participation by disabled people in public life; and
- take steps to take account of disabled people's disabilities, even where that involves treating disabled people more favourably than others.

## **Gender**

### Responsibilities

In carrying out their functions Community Councils should:

- eliminate unlawful discrimination;
- eliminate harassment; and
- promote equality of opportunity between men and women.

## **How Community Councils can help promote equalities in their areas?**

- find out about the makeup of the area – how many people of different races, with disabilities or of different genders live in the area.
- make sure that any advertising is accessible to all, and that meetings take place in accessible buildings at times that suit everyone.
- try to engage 'hard-to reach' groups – help to do this is available from your community council liaison officer or your local council for voluntary service.
- run local events in partnership with local ethnic groups, disability and other community groups.
- always consult about how any plans would affect all members of the community,
- act in an inclusive manner when inviting speakers from ethnic, disability and community groups to discuss difficulties they are experiencing in the community with the community council.
- make it clear that the community council will not support any discrimination, harassment or victimisation.

## **SECTION 19 THE ROLE AND REMIT OF THE SCOTTISH, UK AND EUROPEAN PARLIAMENTS**

### **Background**

The Model Scheme for the Establishment of Community Councils specifies that Members of the Scottish, UK, and European Parliaments are *ex-officio*\* members of community councils within their constituency or region. Below is an outline of the roles and powers of the various Parliaments.

*\* Member generally taken to be a person, who, by virtue of an office or position held, is officially attached to a committee as a non voting member*

### **The Role of the Scottish Parliament**

Scotland, Wales and Northern Ireland all held successful referendums on devolution in the late 1990s. In Scotland's case, this led to the establishment of a separate Parliament following the passing of the Scotland Act 1998, which can be viewed at this weblink <http://www.opsi.gov.uk/acts/acts1998/19980046.htm>. The Scottish Parliament took responsibility for its devolved powers on 1 July 1999

### **Devolved and reserved powers**

Devolved powers are decisions that the UK Parliament used to control, but are now taken by the separate bodies, such as the Scottish Parliament. This includes matters like education and health. Reserved powers are those decisions that remain with Parliament in Westminster. Which powers were devolved and which were reserved were determined by the legislation.

### **The Scottish Parliament**

The role of the Scottish Parliament is to make laws in relation to devolved matters in Scotland. In these devolved areas, it is able, by virtue of the devolution legislation, to amend or repeal existing Acts of the UK Parliament and to pass new legislation of its own in relation to devolved matters. It will also be able to consider and pass private legislation, promoted by individuals or bodies (for example local authorities) in relation to devolved matters.

Among the areas devolved, not included in the devolution proposals of the Scotland Act 1978, are economic development, financial and other assistance to industry, universities, training, forestry, certain transport matters, the police and the prosecution system.

All matters that are not specifically reserved are devolved. Devolved matters over which the Scottish Parliament has legislative power include:

## **Health**

- health generally including overall responsibility for the National Health Service in Scotland and public and mental health; also the education and training of health professionals and the terms and conditions of service of NHS staff and general practitioners;

## **Education and training**

- school education including pre-5, primary and secondary education, the functions of Her Majesty's Inspectorate of Schools and teacher supply, training and conditions of service;
- further and higher education including policy, funding, the functions of the Scottish Higher Education Funding Council (SHEFC) and student support;
- science and research funding where supported through SHEFC and where it is undertaken in support of other devolved matters;
- training policy and lifelong learning including all the training responsibilities presently exercised by The Scottish Office;
- vocational qualifications including the functions of the Scottish Qualifications Authority;
- careers advice and guidance

## **Local government, social work and housing**

- local government including local government finance and local domestic and non-domestic taxation;
- social work including the Children's Hearings system;
- voluntary sector issues;
- housing;
- area regeneration including the designation of enterprise zones;
- land-use planning and building control.

## **Economic development and transport**

- economic development including the functions of Scottish Enterprise, Highlands and Islands Enterprise and the local enterprise companies;
- financial assistance to industry subject to common UK guidelines and consultation arrangements to be set out in a published concordat;
- inward investment including the functions of Locate in Scotland;
- promotion of trade and exports including the functions of Scottish Trade International;
- promotion of tourism including the functions of the Scottish Tourist Board;
- passenger and road transport covering the Scottish road network, the promotion of road safety, bus policy, concessionary fares, cycling, taxis and minicabs, non-technical aspects of disability and transport, some



rail grant powers, the Strathclyde Passenger Transport Executive and consultative arrangements in respect of public transport;

- appropriate air and sea transport powers covering ports, harbours and piers, the provision of freight shipping and ferry services, the activities of Highlands and Islands Airports Ltd and planning and environmental issues relating to airports;
- inland waterways.

## **Law and home affairs**

- criminal law and procedure except for offences created in statute law relating to reserved matters including drugs and firearms;
- civil law except in relation to matters which are reserved;
- electoral law in relation to local government elections;
- judicial appointments subject to the appointments of the Lord President of the Court of Session and the Lord Justice Clerk being made by The Queen on the advice of the Prime Minister on the basis of nominations from the Scottish Executive;
- the criminal justice and prosecution system;
- the civil and criminal courts including the functions of the Scottish Courts Administration and the Court of Lord Lyon;
- tribunals concerned with devolved matters and the Scottish Council on Tribunals;
- legal aid; parole, the release of life sentence prisoners and alleged miscarriages of justice; and prisons including the functions of the Scottish Prison Service and the treatment of offenders;
- the police and fire services including fire safety;
- civil defence and emergency planning;
- functions under various international legal agreements in devolved areas, for example relating to child abduction and the reciprocal enforcement of Maintenance Orders;
- liquor licensing;
- protection of animals including protection against cruelty to domestic, captive and wild animals, zoo licensing, controlling dangerous wild animals and game.

## **Environment**

- the environment including environmental protection, matters relating to air, land and water pollution and the functions of the Scottish Environment Protection Agency; water supplies and sewerage; and policies designed to promote sustainable development within the international commitments agreed by the UK;
- the natural heritage including countryside issues and the functions of Scottish Natural Heritage;
- the built heritage including the functions of Historic Scotland;
- flood prevention, coast protection and reservoir safety.

## **Agriculture forestry and fishing**

- agriculture including responsibility for implementing measures under the Common Agricultural Policy, and for domestic agriculture including crofting, animal and plant health and animal welfare subject to suitable co-ordination arrangements to ensure consistency within the UK where required under European law or to protect the public, animal or plant health or animal welfare;
- food standards: the relationship between the powers to be exercised by the Scottish Executive and the proposed Food Agency and the degree of UK co-ordination required to protect the public is considered in the White Paper on the Agency to be issued in the autumn;
- forestry: the Secretary of State for Scotland's functions, including his power of direction over the Forestry Commission, is transferred to the Scottish Executive, as will responsibility for finance for the Forestry Commission's activities in Scotland. The financial arrangements is agreed on a fair and equitable basis taking into account the interests of UK tax payers in a suitable division of the receipts from the business activities of the Commission;
- fisheries including responsibility for implementing measures under the Common Fisheries Policy, subject to suitable co-ordination arrangements to ensure effective discharge of UK obligations; domestic fisheries matters including inshore sea fisheries, salmon and freshwater fisheries and aquaculture.

## **Sport and the arts**

- sport including the activities of the Scottish Sports Council;
- the arts including the functions of the National Library of Scotland, the National Museums of Scotland, the National Galleries of Scotland, the Scottish Museums Council, the Scottish Arts Council, and Scottish Screen and support for Gaelic

## **Other matters**

- statistics, public registers and records including the responsibilities of the Keeper of the Registers, the Keeper of the Records, and the Registrar General for Scotland.

The Scottish Parliament is also able to examine devolved matters and debate a wide range of issues of interest and concern in Scotland, whether devolved or reserved. The Scottish Parliament and Executive is able to promote equal opportunities through policies and legislation in the full range of devolved matters. There will continue to be arrangements for the Scottish voice to be heard on UK-wide subjects such as women's issues.

## **The Role of the United Kingdom Parliament**

Parliament is an essential part of UK politics. Parliament is comprised of the House of Commons and the House of Lords, both based within the Palace of Westminster. Parliament and government both play a part in forming the laws of the United Kingdom. The government is formed by the political party that wins the most seats in a general election, led by their party leader, who becomes Prime Minister. Parliament and government are separate institutions that work closely together. Parliament's main roles are:

### **Examining and challenging the work of the government (scrutiny)**

Parliament examines and challenges the work of the government. Both the House of Commons and the House of Lords use similar methods of scrutiny, although the procedures vary. The principal methods are

- questioning government ministers,
- debating
- investigative work of committees.

The government can publicly respond to explain and justify policies and decisions.

### **Debating and passing all laws (legislation)**

Both Houses hold debates in which Members discuss government policy, proposed new laws and current issues. Debates are designed to assist MPs and Lords to reach an informed decision on a subject. Votes are often held to conclude a debate, which may involve then passing or rejecting a proposed new law (legislation) or simply registering their opinion on a subject. All debates are recorded in a publication called 'Hansard' - available online at this weblink - <http://www.hansard-westminster.co.uk/>

Parliament is responsible for approving new laws (legislation). The government introduces most plans for new laws, or changes to existing laws - but they can originate from an MP, Lord or even a member of the public or private group. Before they can become law, both the House of Commons and House of Lords must debate and vote on the proposals.

### **Reserved powers**

With the advent of the Scottish Parliament in 1999, the UK Parliament retained authority over those sections of legislation not devolved, in addition to the authority over the devolved institutions – the Scottish Parliament, the Northern Ireland Assembly, and the Welsh Assembly. In terms of Scotland, authority over the following areas are retained by Westminster.

- the constitution, which is uncodified, that is to say there is no one document that contains the constitution of the UK Parliament. Rather the constitution is a collection of documents, customs and practices which have evolved over centuries, as one would expect of the world's oldest democracy;
- defence and national security, namely the armed forces and military intelligence services;
- fiscal, economic and monetary system which includes taxation and currency;
- trade and industry, including competition and customer protection;
- transport (not particular to Scotland) including railways, transport safety and regulation;
- Social security including housing benefit, and other services provided by the Dept of Works and Pensions;
- medical ethics - abortion; human fertilisation and embryology; genetics; xenotransplantation and vivisection;
- TV and radio broadcasting, and also telecommunications licensing;
- Foreign affairs, which ranges from relations with institutions such as the United Nations, to the provision of UK embassies throughout the world;
- the Civil Service who staff the various governmental organisations;
- immigration and nationality, including passport control;
- energy - electricity, coal, oil, gas, nuclear, and renewable;
- employment legislation, including working hours, and the minimum hourly rate;
- equal opportunities such as anti-discrimination legislation.

## **The Role of the European Parliament**

The European Parliament is the only directly-elected body of the European Union. The 785 Members of the European Parliament are elected once every five years by voters right across the 27 Member States of the European Union on behalf of its 492 million citizens.

The European Parliament plays an active role in drafting legislation which has an impact on the daily lives of its citizens: For example;

- on environmental protection, consumer rights, equal opportunities, transport, and the free movement of workers, capital, services and goods. The European Parliament also has joint power with the Council over the annual budget of the European Union.

The European Parliament has the authority to apply legislation in the UK but actually putting it into action may require the UK Parliament to pass new or amended legislation.

Further information on the work of the European Parliament can be found here

<http://www.europarl.europa.eu/parliament/public/staticDisplay.do?id=146&language=EN>