

**PROPOSED AMENDMENTS TO
SCHEME FOR THE ESTABLISHMENT OF COMMUNITY COUNCILS
IN DUMFRIES & GALLOWAY**

APPENDIX 4



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1 INTRODUCTION

Community Councils were first established in Scotland following the Local Government (Scotland) Act 1973. Thereafter, the Local Government etc. (Scotland) Act, 1994, which produced the current system of unitary Local Authorities, made provision for the continuation of community councils. Under the legislation, every local community in Scotland is entitled to petition their local authority to establish a community council in their area.

Although they are elected bodies, Community Councils do not have the status of local authorities nor are they part of local authorities. Community Councils are a separate legal entity with their own rights and responsibilities created and sustained by the said Acts of 1973 and 1994 to be run in accordance with the approved Scheme.

The Amended 2018 Scheme for Community Councils in Dumfries and Galloway ("The Scheme") was agreed by The Dumfries and Galloway Council (DGC) on ----- 2018. Its purpose is to enable the establishment of community councils within Dumfries and Galloway and to provide a common minimum basic framework governing their creation and operation. All Community Councils within Dumfries and Galloway are required to adhere to its terms.

The Scheme supports the operation of Community Councils and is viewed by DGC as the Community Council's Constitution to encourage and maintain consistency across for all Community Councils. It sets out the basic role and purpose of community councils and the basic rules that are expected to be complied with, including in relation to complaints and the conduct of members.

1.1 STATUTORY PURPOSES

The statutory purposes of Community Councils established under the Scheme are set out in Section 51(2) of the Local Government (Scotland) Act 1973 as follows:

"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 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".

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2 ROLES AND RESPONSIBILITIES

2.1 The Role of Dumfries and Galloway Council

2.1.1 Create a Scheme for the Establishment of Community Councils in Dumfries and Galloway with the provision of Boundary Maps

2.2 Responsibilities of Dumfries and Galloway Council

2.2.1 Arrange for establishment of community councils upon receiving 20 signatures of electors in that area in terms of section 52(7) of the Local Government (Scotland) Act 1973

2.2.2 Put in place arrangements to effectively share information with Community Councils and put in place a single point of contact to respond to Community Council enquiries.

2.2.3 Review the Scheme, both periodically and in response to representations made, and where amendments are required to propose, consult and vote on those amendments in terms of section 53 of the Local Government (Scotland) Act 1973

2.2.4 Where appropriate, revoke the existing Scheme and replace it with a new Scheme in terms of section 22 of the Local Government etc (Scotland) Act 1994.

2.2.5 Consult directly with Community Councils on all issues where consultation with the public is a statutory requirement.

2.2.6 Advise a Community Council directly, and in advance of Press advertisement, of planning applications within a Community Council's area.

2.2.7 Consult with Community Councils on changes in licensing policies.

2.2.8 Advise a Community Council of major works proposed by DGC, or of major utility works of which DGC is aware and of any changes to timing or duration of those works, within a Community Council's area.

2.2.9 Agree to receive representations from Community Councils on matters of concern to their community.

2.2.10 Promote the Community Council Enquiry Service (CCES) as the single point of contact for Dumfries and Galloway Council. Acknowledge written communications (including e-mails) from Community Councils within 5 working days, and reply within 20 working days. Address complaints about the operation of Community Councils where permitted under the Scheme.

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2.4 Within the resources available, Dumfries and Galloway Council shall endeavour to:

- 2.4.1 Ensure that Community Councils continue to be involved effectively in approaches to engage and involve communities in decisions that affect them.
- 2.4.2 DGC shall determine a consistent level of support to Community Councils across the region within available resources.
- 2.4.3 Arrange elections for Community Councils
- 2.4.4 Make contributions towards the expenses of Community Councils, which may include a grant to cover for example administrative costs or volunteer expenses, furniture, vehicles and equipment.
- 2.4.5 The Communities Directorate shall offer advice and assistance to Community Councils for development and training on such things as the duties and responsibilities of office bearers, the role of Community Councils, the functions of DGC and other relevant topics.
- 2.4.6 Involve Community Councils in any consultations arranged through public meetings.
- 2.4.7 Consult reasonably with Community Councils regarding the administration of local charities and Common Good funds.

2.5 The Role of Community Councils

- 2.5.1 Community Councils are inclusive organisations whose general purpose is to act as a voice for their local area. This will involve Community Councils articulating the views and concerns of local people in their area on a wide range of issues of public concern and make representations to DGC, other public sector bodies and private agencies on matters within their area of interest. This may also include the administration of Windfarm community benefit funds.

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

2.6 Responsibilities of Community Councils

- 2.6.1 **Consultation by public sector and other agencies:** Community Councils have a statutory right to be consulted on planning applications, and may from time to time be consulted on issues such as licensing, matters affecting the local community and interface with the Scottish Government.

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- 2.6.2 **Other Activities:** Community Councils may carry out any other activities that are in the general interests of the communities they represent, provided these activities fall within the objects of the Scheme.
- 2.6.3 **Partnership working:** Community Councils should aim to establish effective working relationships with DGC, Public Authorities and wider organisations.
- 2.6.4 **Community Engagement:** The Community Council will encourage and facilitate consultation with the community to listen to and consider the views of local people. Depending on the issue, methods may include social media, public meetings, community surveys, comment or suggestion boxes, as well as clear agendas and minutes. The National Standards for Community Engagement are available to guide Community Councils on engaging with their community <http://www.scdc.org.uk/what/national-standards/>
- 2.6.5 **Representation:** Community Councils have a duty under statute to represent the views of their local community. It is vital that they reflect the broad spectrum of opinion and interests of all sections of the community. In order to fulfil their responsibilities as effective representatives, Community Councils shall;
- 2.6.6 **Inform the community** of the work and decisions of the Community Council (CC) by posting agendas and draft minutes/approved minutes of their meetings in public places within the boundary and, subject to the provisions contained within the Data Protection Act 2018 provide contact details of Community Council members aged over 18.
- 2.6.7 **Governance:** In carrying out their activities, all members of the Community Council, regardless of whether they are elected, co-opted, associate or ex-officio must at all times adhere to the law, and the terms of the Scheme including the Code of Conduct. All Community Councillors sign a declaration to adhere to the terms of the Scheme and Code of Conduct on the nomination form for Election and Co-option and are required to sign a copy of “The Scheme” after Election or Co-Option. Community Councils are also encouraged to accept the advice and guidance published by the Scottish Government:
(<http://www.gov.scot/Topics/Government/PublicServiceReform/CommunityCouncils/GoodPracticeGuidanceVer2>). For the avoidance of doubt where there may be a contradiction between Scottish Government Guidance and the Scheme the Scheme takes precedence.
- 2.6.8 DGC must be informed of any change in membership (resignations, Associate Membership, etc.) and circumstances within one calendar month.
- 2.6.9 **General Data Protection Regulations:** A Community Council handles personal data therefore each Community Council is required to adhere to all relevant legislation. It is required to register with the Information

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Commissioner's Office (ICO) details available at <https://ico.org.uk>. Further guidance on this is available at <https://ico.org.uk/for-organisations/register/>

- 2.6.10 **Circulate agendas, draft and approved minutes of meetings to:** Community Councillors, Ward Elected Members and DGC CommunityCouncil@dumgal.gov.uk and to any other interested parties, for example Public Sector Bodies and those who request them for a specific purpose. These should be displayed publically for at least 7 calendar days before an ordinary meeting and at least 14 calendar days before an Annual General Meeting (AGM) or Extraordinary General Meeting (EGM). Minutes should be marked draft or approved. Public display may include email, social media as appropriate;
- 2.6.11 Seek to broaden representation and expertise by promoting Associate Membership of the Community Council to persons for specific projects/issues;
- 2.6.12 **Comply with The Equality Act 2010**, which requires us to look at equality in terms of the nine "protected characteristics": age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; sexual orientation. The Community Council should therefore make a particular effort to engage with these groups. Everyone has the right to be treated fairly and have access to the work of the Community Council;
- 2.6.13 **Complaints handling:** There is an independent complaints handling procedure at **Schedule 3** of The Scheme. All Community Councils should adhere to it as it forms part of the Scheme. Any Third party with a complaint against the Community Council should use the Independent Complaints procedure contained in Schedule 3.

3. BOUNDARIES AND ESTABLISHMENT

- 3.1 **Boundaries:** A map showing the boundaries of all Community Council areas, the number of registered voters and the minimum and maximum permitted number of members for each Community Council are detailed in **Schedule 1** of the Scheme. Each Community Council has a copy of its own boundary map and copies of boundary maps are available online at DGC's website and by contacting your local Customer Service Centre.
- 3.2 All Community Councils established at the date of adoption of this Amended Scheme by DGC shall continue to be established and shall operate in accordance with this Amended Scheme subject to 15.1.
- 3.3 **Establishment:** Where the community wishes to establish a Community Council, or re-establish a dissolved Community Council, within a Community Council area shown in Schedule 1 a written application to DGC by 20 electors should be made in accordance with Section 52(7) of the Local Government (Scotland) Act

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1973. The 20 electors will prepare, together with DGC officers, for the establishment or re-establishment of a CC in that area. The newly established community council will be elected in terms of the by-election process. Any new Community Council shall be entitled to apply to DGC for a pro-rata payment of the discretionary grant for the remainder of the financial year in which it re-established.

4. CONSTITUTION

- 4.1 **Constitution:** The Scheme shall operate as a Constitution for each Community Council and its members regardless of their classification, who shall evidence their willingness to adhere to it by signing it at section 16 at the first meeting following election.
- 4.2 The original signed Scheme should be retained by the Community Council for them to update with changes in membership between ordinary elections. Any new member, appointed through co-option or an election process, shall append their signature and date of signing to the document. Any departing member shall have the date they ceased to be a member marked against their signature.
- 4.3 A copy of the signed Scheme (which can be a scanned copy sent by email CommunityCouncil@dumgal.gov.uk) should be forwarded to DGC within one calendar month of signing, including signing upon any change of membership.

5. MEMBERSHIP OF COMMUNITY COUNCILS

5.1 **Composition of Community Council.** A Community Council may be composed of the following types of members, all of whom shall adhere to the Scheme of Establishment:

Role	Elected Community Councillor	Co-Opted Community Councillor	Associate Member	Ex-Officio Member
Process for Election	Section 7.5	Section 5.5.1	Section 5.5.2	Section 5.4.2
Able to propose motions and vote on decisions	✓	✓		
Eligible to be appointed as an Office Bearer (subject to 6.1)	✓	✓		
Propose and Elect a Co-Opted Member	✓			
Adherence to “The Scheme”	✓	✓	✓	✓

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5.2 **Membership:** Schedule 1 contains the *minimum and maximum permitted number of members with voting rights* and any request to change these numbers must be made during a Review of the Scheme. For example:

Maximum permitted members	11
Minimum permitted members	4
Maximum number of Co-opted members	3

Maximum number of Community Councillors members may be made up as follows:

- Candidates elected at an ordinary election, by-election (contested or uncontested) or casual vacancy election up to the maximum permitted members.
- Candidates co-opted in accordance with the process in 5.3 and 5.4 of the Scheme, subject to the co-opted members not exceeding ONE THIRD of the maximum permitted members. In this case if there are fractions when calculating membership numbers, these should be rounded down. For example, if the maximum permitted members is 11, the maximum number of co-opted members would be 3.

5.3 **Qualification for Community Council Member:**

Whether Elected or Co-opted Members require to be:

- 16 years or over
- reside within the Community Council area
- be named on the current register of electors for that area on the date of being proposed for membership.
- Any individual who is Elected to serve on DGC, or the Scottish, UK or European Parliament shall be ineligible to remain a Community Councillor, or to stand for Election to a Community Council. Such persons, upon taking office become Ex-Officio of the Community Councils contained in whole or in part of their Electoral constituency

Should a Community Councillor cease to be named on the current register of electors for that area, they must cease to be a Community Councillor. However, if a Community Councillor leaves the Community Council area but retains their main residence within the Community Council area and continues to be named on the current register of electors for that area and no other area in the UK, they may continue to be a Community Councillor provided they can fulfil the requirements for meeting attendance.

5.4 **Status of Associate and Ex-officio Community Council members:** These individuals have no entitlement to vote, propose or second motions or amendments, count towards meeting a quorum, hold office or be a representative or delegate on its behalf. For the avoidance of doubt these members are not Community Councillors;

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5.4.1 **Qualification for Associate Members** do not need to meet the requirements of 5.3 and may be appointed where there is a need for individuals with particular skills or knowledge. Associate members may also include representatives from other constituted local voluntary organisations.

5.4.2 **Qualification for Ex-officio members:** The Elected Members of DGC, the Scottish Government, the UK Government and European Parliament whose area of representation includes any part of the Community Council area shall be *ex-officio* members.

5.5 Process of appointment

5.5.1 **Co-opted Community Councillor:** Co-opted members must be proposed and seconded by Elected Community Councillors at an ordinary meeting, AGM or EGM and approved by a two-thirds majority of the elected Community Council members.

Public notice of any proposed co-option must be on the published agenda for the meeting at which the matter will be decided and the agenda and draft/approved minutes must include the name and address of each proposed co-opted Community Councillor and their proposer.

The number of co-opted members will be determined by the number of vacancies, in relation to the maximum permitted membership, of the Community Council. For the avoidance of doubt the number of co-opted members must not exceed one third of the maximum permitted membership of the Community Council and shall be in accordance with **Schedule 1**.

If the number of nominations for a co-opted members exceeds the available number of vacancies then Members should fill the vacancies by way of a casual vacancy election in section 7.9.1.

5.5.2 **Associate members** must be elected at an ordinary meeting, AGM or EGM by a two-thirds majority of the elected Community Council members. The agenda and draft/approved minute must include the name and address of each proposed Associate Member and their proposer. Name and address of under 16 year olds will not be published. Agreement to adhere to the Scheme which shall be minuted at the time of appointment and the Scheme signed.

5.6 Term of Office (subject to Clause)

5.6.1 **Elected Member** - The term of office for elected members of the Community Council shall extend from one Ordinary or By-Election to the next Ordinary/ By-Election, whichever is earlier and all Community Councillors shall leave office at 8am on the day after the date set for the ordinary or by-election.

5.6.2 **Co-opted Members** shall serve from their appointment until the next round of elections be they ordinary election, by-election or casual vacancy election

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and all co-opted members shall demit office at 8am on the day after the ordinary election, by-election or casual vacancy election

- 5.6.3 **Associate members** may serve for a fixed period (determined by the Community Council) or for the term of office of the Community Council, that has appointed them.
- 5.6.4 **Ex-Officio Members** will serve while they serve as an elected member.

6. OFFICE BEARERS

6.1 APPOINTMENT OF OFFICE BEARERS AND TERM OF OFFICE:

At the first meeting of the Community Council after an Election or By-Election, and following the removal of an Office Bearer, the Community Council shall appoint a Chair, Secretary, and Treasurer. The Community Council may appoint additional Office Bearers.

- 6.2 Office Bearers shall not be eligible to hold more than one position on the Community Council. The Chair and one other office bearer shall be elected members of the Community Council. The remaining office bearer may be a co-opted member. In the fulfilment of an Office Bearers role, it shall be possible to appoint an Associate Member to support the functions and activities of the Office Bearer (for example, a minute secretary). At the AGM of the Community Council, each Office bearer shall stand down and the Community Council shall appoint a Chair, Secretary and Treasurer who may be a previous Office bearer. If an office bearer position becomes vacant, the Community Council may appoint, at its next ordinary meeting, a temporary replacement to serve until the next AGM

- 6.3 To propose a nominee for office bearer, the proposer must be present at the meeting. If there is more than one nominee for the same position a vote is required at which all Elected and Co-opted members can vote. Proxy voting is not permitted. When a person nominated for office is unable to attend the meeting, the nominee must confirm in writing to the Returning Officer (or Community Council Secretary if there is one in place) at least one working day before the meeting that they are willing to accept office if elected.

6.4 The Role of the Chair:

- Is the official spokesperson and representative of the Community Council
- Convenes and presides over meetings
- Shall be responsible for ensuring that Community Council operates in accordance with "The Scheme"
- Will submit a written report on the Community Councils activities from the previous year at each AGM

6.5 The Role of the Secretary:

Scheme adopted at a meeting of the Dumfries & Galloway Council on 26 June 2014 – reviewed 15/06/2018

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- Liaison with officials of the local authority and other Public Sector Bodies with responsibilities in the area of the Community Council.
- Prepares the agenda for meetings and circulates all supporting papers and other information to members.
- Publishes notices of meetings in public places/the community council's website/local libraries and sends copies to DGC.
- Confirming at the start of meetings that a quorum is present and the Community Council remains correctly constituted and able to conduct its business.
- In the absence of the Chair, presides over the appointment of a temporary Chair for the meeting.
- Checks, circulates and publishes draft and final Minutes of meetings as above.
- Inform DGC of any change in membership (resignations, Associate Membership, etc.) and circumstances within one calendar month.
- Answering all correspondence
- Writing any letters.
- 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.
- The duties may be allocated to more than one member including Associate Members, for instance having someone to act as Minute Secretary - taking minutes at meetings.

6.6 The Role of the Treasurer:

- Issuing all cheques and making payments on behalf of the Community Council and any charities and/or other funds dispersed by the Community 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 in accordance with the bank mandate.
- Revising the bank mandate as required on resignation/appointment of office bearers.
- Preparing and speaking to a written financial report at each meeting, and an annual financial report at the AGM.
- Reporting and answering any questions raised by Members of the Community Council or the public on the Annual Statement of accounts.

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- 6.7 **Removal of office bearers:** In the event that an office bearer is not performing their duties to the Community Council's satisfaction, a motion to remove that office bearer from their post can be considered at a Community Council meeting provided that notice has been given on the agenda for the meeting. The office bearer concerned shall be given an opportunity to be heard at the meeting orally or in writing. The motion shall require a proposer and seconder and to be passed by a two-thirds majority of elected and co-opted members of the Community Council (excluding the Member affected). If passed, the office bearer shall be deemed to have been removed from that post and the post will require to be filled as the next item of business at that meeting.

The liabilities and responsibilities of all Office Bearers shall not cease until they have transferred all documents and assets that they may hold in their capacity as on Office Bearer.

7.0 COMMUNITY COUNCIL ORDINARY ELECTIONS & BY-ELECTIONS

- 7.1 **Voters' Eligibility:** Voters in a Community Council election must be 16 years or over, reside within the boundary of the Community Council area and be named on the current register of electors for that area.
- 7.2 **Elections**
Community Council elections are organised by the Returning Officer and administered by DGC or the Community Council with consent from DGC. Ordinary elections shall be held in October at the same frequency as the Local Government Elections. DGC may re-schedule the election date/cycle of Community Council elections where there are circumstances, which affect a community's ability to become involved in the democratic process.
- 7.3 **Returning officer (RO):** In consultation with the Community Council, DGC will appoint a Returning Officer who must not be a current member of the Community Council nor intend to stand for election to the Community Council.
- 7.4 **Nominations:** Nomination forms must be signed by one proposer who must be on the current register of electors for the Community Council area and nominations should be submitted with the candidate's consent. Each person may propose only one person and if they propose more than one person the RO will use the earlier dated form and if the forms are dated the same then the first paper read by the RO shall be eligible. Self-nomination is not permitted. All names on nomination forms must match those on the current register of electors; nicknames or abbreviations should not be used.
- 7.4.1 A nomination form must be completed and submitted by the date and time set down in the election timetable. Late nomination forms will not be accepted. Candidates for election may withdraw their nomination but only if they advise their withdrawal in writing to the RO by the closing date for nominations.

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7.5 Election Process

7.5.1 Uncontested election: If the number of validly nominated candidates is equal to or more than the minimum permitted membership, but does not exceed the maximum permitted membership in **Schedule 1**, the said candidates will be declared to be elected and no ballot shall be held. This is an uncontested election and Community Council members will be considered to have been elected unopposed.

Community Councillors shall assume office at 8am on the day following the date set for the ordinary, by-election or filling of casual vacancies.

7.5.2 Contested election: Should the number of candidates validly nominated be more than the maximum permitted membership in **Schedule 1**, arrangements for a Poll shall be made. The Notice of Poll should be publicly displayed for 14 days immediately prior to the election and contain the names and addresses of candidates and proposers, their electoral registration numbers and the venue, dates and times fixed for the conduct of the Poll and the count.

Community Councillors shall assume office at 8am on the day following the date of the ordinary, by-election or filling of casual vacancies.

7.5.3 Voting at elections: Voting shall be by paper ballot at a designated polling place. Ballot papers shall be laid out in a style approved by DGC. There will be no provision for postal or proxy voting. The hours of polling, shall be determined for each Community Council area by the Returning Officer, in consultation with the Community Council. At the Poll, each voter shall be entitled to vote for candidates up to the number of vacancies on the Community Council. A voter can only vote for an individual candidate once.

7.5.4 Non-establishment: Should the number of candidates validly nominated be below the minimum permitted membership, no Community Council will be established at that time. However, DGC may decide to issue a second call for nominations for a Community Council area failing to meet the minimum membership requirement, within 3 months of the closing date for the registration of the first call for nominations. Valid nominations from the first call for nominations will remain valid for the second call for nominations.

7.6 Method of Election: Elections will be based on whole Community Council areas and Community Council members shall be elected on a simple majority basis. In the event of more than one candidate receiving the same number of votes for the last available seat(s) on the Community Council, the successful candidate(s) shall be decided by lot. As soon as possible after any election, the Returning Officer shall give public notice of the names and addresses of members elected.

7.7 Vacancies between Ordinary elections:

Casual vacancies on a Community Council may arise when an individual Elected or Co-opted Community Council member:

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- submits their written resignation to the Secretary of the Community Council or to another Office Bearer in the absence of a Secretary;
- ceases to be resident within that Community Council area
- is no longer on the current register of electors;
- has their membership disqualified (section 8 of the Scheme); and
- on the death of a Community Council member.

7.8 Options when filling vacancies between Ordinary elections:

7.8.1 If the vacancy results in the number of Elected Community Councillors falling below the minimum number as defined in Schedule 1 then the Community Council is dissolved and a By-election is required (7.9.3)

7.8.2 If the vacancy does not result in the number of Elected Community Councillors falling below the minimum number as defined in Schedule 1 then the vacancy can be filled by:

1. Holding a casual vacancy election; or
2. Co-option – provided the existing Co-opted membership is not equal to the maximum stated in Schedule 1.

7.9 Methods of filling vacancies between Ordinary Elections.

7.9.1 Casual vacancy election –The members elected as a result of this process will be Elected Community Councillors so the provisions regarding eligibility at 5.3 shall apply. All Co-opted Members shall stand down and the total number of vacancies shall be recorded in the minutes along with the decision to use a casual vacancy election. Arrangements shall be put in place to hold an EGM (9.6.2) for the purpose of a casual vacancy election for all of the available vacancies. A Returning Officer shall be nominated for appointment by DGC. The number of vacancies shall be publicised within the Community Council boundary through for example notice boards and social media. Nomination forms will be made available by and returned to the Returning Officer within 21 days of the meeting. The election requirements of 7.1-7.5 shall apply

7.9.2 **Co-option:** See sections 5.5.1 of the Scheme.

7.9.3 **By-election:** Where the number of elected Community Councillors falls below the minimum permitted membership in Schedule 1, the CC shall be dissolved on the date that the number fell below the minimum permitted. All voting members of the Community Council shall leave office on that day. The outgoing Chair, or if unavailable the Secretary, shall inform DGC in writing of the dissolution of the Community Council within 7 days. The Community Council will not be re-established until:

- DGC receive notification in terms of 3.3; and

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- A By-election takes place. DGC will make arrangements for this to be held within six weeks of receiving the notification in terms of 3.3.

The by-election shall be held on a date to be determined by DGC and subsequent elections will be held at the next scheduled ordinary election in the cycle. The election requirements of 7.1-7.5 shall apply.

8.0 DISQUALIFICATION OF MEMBERSHIP

8.1 Community Council membership is invalidated should:

- A Community Council member loses their eligibility in terms of section 5.3.
- A Community Council member fail to attend at least half of the scheduled Community Council meetings in any financial year (with or without submitting apologies). At the discretion of individual Community Councils, a period of leave of absence for members may be granted at any meeting of the Community Council, in which case the automatic termination rule does not apply.

9. MEETINGS

9.1.1 **First Meeting:** The first meeting following an ordinary or by-election will be called by the Returning Officer (RO) and will take place within a calendar month of the date of the election. Failure to hold the first meeting within this timescale shall result in dissolution. The RO must chair the first meeting until a Chair has been appointed, after which the Chair shall preside over the meeting.

9.1.2 At the First Meeting, or in the event of absent members within 14 days of the meeting Community Councillors shall provide the Secretary with their full contact details and sign the Scheme at Section 17.

9.1.3 Within one calendar month of the first meeting, the Secretary shall provide DGC with a written return including the full contact details of all Community Council members.

9.2 **Frequency of meetings:** This will be determined by each Community Council, subject to a minimum of one AGM and 5 ordinary meetings being held each financial year (*an ordinary meeting is a scheduled business meeting*). The AGM shall be held in the same month each year, to be determined by the Community Council. Dates, times and venues of ordinary meetings shall be fixed at the first meeting of the Community Council following elections and thereafter at its AGM. . Should a Community Council not hold quorate meetings on 2 consecutive scheduled occasions, it shall be deemed to be dissolved.

9.3 **Quorum:** A Community Council meeting will only be quorate if the minimum permitted number of elected members as shown in Schedule 1 are present.

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- 9.4 **Voting:** All motions or amendments shall be moved and seconded. All votes shall be carried by a majority of the voting membership except where specifically stated to the contrary in the Scheme. If a vote results in a tie the meeting Chair shall have a casting vote.
- 9.5 **Public attendance and their voting rights:** All meetings of the Community Councils and its committees shall be open to members of the public, including members of the Press where they wish to attend. Proper provision should be made for the accommodation of the public and they should have the opportunity to address the Community Council, under the guidance of the Chair. Members of the Public have no voting rights at any Community Council Meeting.
- 9.6 **Annual General Meeting**
Shall take place on the same month each year. Fourteen calendar days public notice is required. AGM agendas shall include:
- Annual report from the Chair
 - Annual report from the Treasurer
 - Independently examined and certified Statement of Accounts and asset register
 - The appointment of Office Bearers
 - Any other business that can be competently dealt with at an AGM.
- 9.6.1 **Extraordinary General Meetings:** An EGM may be called:
- On the request of the Chair of the Community Council
 - On the request of at least **one-third** of the current voting membership
 - in the event of the Community Council deciding to hold elections to fill casual vacancies or
 - On the request of **20** electors for the Community Council area.

The meeting shall be held within **21** calendar days of the Secretary's receipt of the request. The reason for holding the EGM must be clearly stated in the notice calling the meeting. It will only be necessary to call such a meeting if the subject matter of the request cannot be dealt with at the next ordinary meeting of the Community Council. Fourteen calendar days' public notice is required before an EGM.

- 9.7 **Sub-Group:** A Community Council may arrange for the discharge of any of its role or responsibilities to a sub group. When a sub-group is established, details of the membership and terms of reference shall be included in the minutes of the Community Council. If a subgroup is appointed to discharge the role or responsibilities of a Community Council, a majority of the sub-group members shall be elected members of the Community Council. Decisions may be made by the sub-group and reported back to the next Community Council meeting. Meetings of such sub-group shall be open to the general public as observers and shall be minuted.

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- 9.8 **Working Parties:** Where a working party is formed which has no decision-making powers but rather will make recommendations to the Community Council, it will **not** be necessary to hold those meetings in public.
- 9.9 **Approval of minutes:** Ordinary meeting minutes shall be approved at the next ordinary meeting; AGM minutes shall be approved at the next Annual General Meeting
- 9.10 **Decisions:** A decision taken at any meeting of the Community Council may not be changed within 6 calendar months of the date of the meeting unless the Chair rules that there has been a material change of circumstances and notice has been given of the proposed change in the agenda for the meeting.

10.0 INFORMATION SHARING

- 10.1 Community Councils should contact Community Council Enquiry Service: CommunityCouncil@dumgal.gov.uk as the first point of contact for all queries or requests for assistance. The Communities Directorate is the main point of contact for Community Councils. It should be noted that other Council Officials will contact Community Councils from time to time.
- 10.2 Community Councils may make representations to DGC and other public and private agencies on matters for which they are responsible and which they consider to be of local interest. In the case of statutory business (such as planning or licensing matters) or consultation by specific DGC department representations should be made to the appropriate DGC official.

11.0 RESOURCING A COMMUNITY COUNCIL

- 11.1 **Funds:** All monies raised by or on behalf of the Community Council or provided by DGC and other sources shall be used to further the statutory purposes, role and responsibilities of the Community Council and for no other purpose.
- 11.2 **Financial year:** This shall be from **1 April to 31 March** (or as agreed by the Community Council) to allow for the proper submission of independently examined accounts to the Community Council's AGM on a specified date.
- 11.3 **Authorised signatories:** Three office bearers of the Community Council, provided they are unrelated (as defined by the law on Charities), shall act as signatories to the Community Council bank account. In the event that any office bearers are related, another elected member will be nominated and approved. Any changes to the authorised signatories should be approved and minuted by the Community Council. All cheques and withdrawals should require a minimum of two from those appointed, one of whom should be an elected Community Councillor. Should a nominated signatory leave the Community Council they shall cease to be an authorised signatory at the date

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they intimate their resignation or they cease to be qualified to be a community council member but shall co-operate in their removal as an authorised signatory.

11.4 Financial Records: Maintain proper financial records and present financial reports at Community Council meetings. Records should include all income and expenditure and an asset register.

11.5 Independently examined accounts:

11.5.1 The Treasurer shall keep proper accounts of Community Council finances, and prepare an annual accounting statement for examination and certification by a person appointed by the Community Council who is independent of the Community Council. The form of the annual accounting statement shall be an income and expenditure account showing general funds and specified funds (such as windfarm community benefit funds) separately and an asset register.

An example of the required form is included in the Scottish Government's guidance on Community Councils (para 2.6.5). A copy of the independently examined accounts shall be submitted for approval to the Community Council's AGM and forwarded to DGC within 7 calendar days of the AGM.

11.5.2 DGC can at its discretion, require a Community Council to produce such records, vouchers and accounts books as DGC considers are required. If there is suspected financial impropriety, DGC has the right to commission a financial governance audit of the Community Council (to be carried out by DGC's internal auditors) or other type of independent financial review of the Community Council (to be carried out by DGC's external auditors).

DGC's internal/external auditors will require access to the Community Council's records, its accounts and financial arrangements so that the auditors may follow the trail of public money from DGC through the CC to its final destination.

11.6 Discretionary Grant

11.6.1 Subject to 11.6.2 and 11.6.3, DGC shall provide an annual grant to Community Councils to be used at their discretion to further the CC's statutory purposes, role and responsibilities and for no other purpose.

11.6.2 The discretionary grant application should be submitted as early in DGC's financial year (1 April to 31 March) as possible, and must be submitted no later than the **last day of February** in each financial year. Late applications will not be processed.

11.6.3 Preconditions to Release of Discretionary Grant: The Community Council shall submit to DGC:

- Agenda and draft minutes no less than **7** calendar days before an ordinary meeting, **14** calendar days before an AGM or EGM;

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- Approved minutes **7** calendar days after the meeting at which they were agreed.
- A scanned copy of The Scheme signed by all current members of the Community Council.
- Failure to hold an AGM will result in the CC's discretionary grant being withheld or reclaimed, whichever is appropriate.

11.7 Other DGC grants: Each CC shall be eligible to apply for grants for suitable projects through DGC's grant system, provided it is in accordance with local priorities, commitments and eligibility criteria.

11.8 Community benefit funds: Where the CC is responsible for the administration of Windfarm community benefit monies, or any other community funds, a complete audit trail should be kept of all such financial transactions. The receipts and payments should be included in the CC's annual financial statement and distinguished from other activities therein. If any question arises about the receipt or use of community benefit funds, the CC should seek to agree any proposed use of funds with the developer in advance or seek its own legal advice before committing itself financially. A failure to operate funds in accordance with conditions and procedures of the developer or administering body may amount to a breach of the Community Council's purpose and lead to withdrawal or recovery of funding.

11.9 Expenses: Community Councillors may be reimbursed from Community Council funds for reasonable expenses incurred in performing the duties of their posts. Where any Community Councillor is authorised to attend a meeting, they may be entitled to expenses and subsistence at the current DGC rate for elected Members (available from: <http://www.dumgal.gov.uk/CHttpHandler.ashx?id=1933&p=0>).

12. INSURANCE AND THE LIABILITY OF COMMUNITY COUNCIL MEMBERS

12.1 DGC shall ensure best value for Community Councils in relation to their public liability insurance cover (blanket scheme). Public liability insurance includes cover for the community resilience activities that are contained within a Community Council's agreed community resilience plan. Once the insurance underwriter has confirmed that insurance cover is agreed, the Community Council will be informed. Should a Community Council have any doubt as to the appropriateness of its insurance cover, it may decide to withdraw from the 'blanket' scheme and make arrangements for its own insurance - in this case the Community Council must inform DGC.

12.2 It is for individual Community Councils to assure themselves over the level of cover that they have, and they must ensure they take out **additional insurance cover** for other activities not covered by the 'blanket' policy, either with the existing insurance provider or an alternative insurance provider.

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12.3 For the avoidance of doubt, DGC's blanket insurance scheme only indemnifies Community Councils who have acted within the terms of this Scheme and for activities arising from the general purpose of Community Councils (para 1.1).

13.0 DISSOLUTION OF A COMMUNITY COUNCIL

13.1 **When a Community Council can be dissolved:** A Community Council may be dissolved by its own decision (13.6) or on the decision of DGC (13.7).

13.2 **Transfer of Assets and Submission of Certified Accounts:** when a Community Council dissolves all assets (property and funds) as are held in trust or under the Community Council's control at the date of dissolution (**after** the satisfaction of any proper debts or liabilities) shall transfer to DGC, nominally or physically at the discretion of DGC, who shall hold same in trust for a future CC representing that area. The liabilities and responsibilities of all members and office bearers of the former Community Council shall not cease until the transfer of assets from the former Community Council to DGC and the submission of satisfactory certified accounts as in 11.5 and certified statement of assets and liabilities for the final period of operation of the former Community Council to DGC.

13.2.1 **Certified statement of assets and liabilities:** Following dissolution the former Community Council must produce a certified statement of assets and liabilities and submit this to DGC within 4 calendar weeks of the date of dissolution.

13.3 **Transfer of Assets to a new Community Council:** Should a new Community Council be established within 4 years of the date of dissolution, all such assets which had been transferred to and held in trust by DGC shall be transferred to the new Community Council along with the transfer of liability to all members and office bearers who have voting rights.

13.4 **Transfer of Assets if no new Community Council:** Should a Community Council fail to be re-established within 4 years of the date of dissolution all assets including money held in bank, building society etc. accounts may be disposed of by Dumfries & Galloway Council for such community or charitable purposes in the former Community Council area as DGC, in its sole discretion, decides.

13.5 **Discretionary Grant:** The Treasurer of the former Community Council shall arrange for the pro rata share of the discretionary grant received by the Community Council from DGC relating to the remaining period of the Community Council's financial year to be repaid to DGC. Any new Community Council shall be entitled to apply to DGC for a pro-rata payment of the discretionary grant for the remainder of the financial year in which it re-established.

13.6 **Community Council decision to dissolve:** If the CC decides (by a majority of the current voting membership) that it is necessary or advisable to dissolve, it shall agree a date for an EGM [a public meeting] to be held to discuss the proposed

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resolution to dissolve. Not less than **14** calendar days prior to the date of such meeting the CC must place a public Notice of Meeting in the local newspaper. Provided the EGM is quorate, if the resolution is supported by a majority of those persons present and eligible to vote,

13.7 Situations Which May Lead to DGC dissolving a Community Council:

13.7.1 Inadequate number of Community Councillors: Where the number of elected Community Councillors falls below the minimum specified in **Schedule 1** of the Scheme, the Community Council is dissolved at the date the number falls below the permitted minimum elected Councillors.

13.7.2 Failure to hold sufficient ordinary meetings: Should a Community Council fail to hold a quorate meeting for a period of **2** consecutive scheduled meeting dates, the Community Council shall be deemed to be dissolved the day following the date of the second scheduled meeting which has not taken place.

13.7.3 Failure to hold First Meeting: Should a Community Council fail to hold its First Meeting within one month of Election or By-election.

13.7.4 Failure to hold an AGM: Should a CC fail to hold an AGM in any financial year, DGC will investigate the reasons why an AGM has not been held and seek clarification as to how this will be remedied. If the situation cannot be remedied this may lead to dissolution of the Community Council.

13.7.5 Result of Financial Audit Should the results of a Financial Audit in terms of 11.5.2 lead DGC to conclude that the CC should be dissolved as a result of fraud, financial maladministration or malfeasance in office.

13.7.6 On the Recommendation of a Review Panel in terms of Section 5 of the Independent Complaints Procedure (Schedule 3).

14.0 TITLE TO PROPERTY

14.1 Property and other assets, including funds, belonging to the Community Council shall be owned in the name of the office bearers for sole the benefit of Community Council.

14.2 All property and other assets, including funds, belonging to the Community Council shall be used to further the statutory purposes, role and responsibilities of the Community Council and for no other purpose. A Community Council may not 'forward fund' or otherwise put assets entrusted to it out of reach of an incoming Community Council or the community it serves.

14.3 If a Community Council wishes to transfer its property or other assets, including funds, to or enter into a legal relationship with a third party, the Community Council should seek its own independent legal advice on this matter.

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14.4 In the event that the Community Council transfers its property or assets, including funds, to a third party the Community Council hereby grant DGC the right to follow such transfer to the third party to ensure that it has been applied in accordance with its intended purpose. This requirement shall be included in any such transfer regardless of whether it is expressly stated by the Community Council to the third party.

14.5 Transfer of assets to a new Community Council: The former Community Council will cease at 8am on the day following an election or by-election and all assets and responsibilities will immediately transfer to the newly elected Community Council. Transfer of Assets on dissolution is dealt with in section 13.2-13.4.

15.0 AMENDMENT OF THIS SCHEME

15.1 The Scheme and its schedules were passed by resolution of the Dumfries & Galloway Council in terms of section 53 of the Local Government (Scotland) Act 1973 on XX XX 2018. With the exception of Schedule 1, the terms of The Scheme came into force on XX XX 2018. The terms of Schedule 1 shall come into force in XX XX 2019, following the next scheduled ordinary election of Community Councils in Dumfries and Galloway, or following any by-election prior to that date (but not any election to fill casual vacancies).

15.2 DGC shall, in terms of section 53 (1) of the Local Government (Scotland) Act 1973, from time to time review this Scheme and its Schedules, and shall receive representations from members of the public in terms of, Section 53(1) of the Local Government (Scotland) Act 1973.

15.3 Dumfries and Galloway Council may propose to make a new scheme in terms of section 22 (3) of the Local Government etc (Scotland) Act 1994.

15.4 Any request to create a new Community Council area can be made during a Review of the Scheme. Such requests should demonstrate local support for the proposal, including minuted or written requests from the public; and the written agreement of the Community Council proposing the change and those Community Councils affected by the change. Potential for working across Community council boundaries can take place at any time. Partnership working across Community council Boundaries is encouraged and can take place at any point during the lifetime of The Scheme.

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Date	Full name of member	Class of Member	Signature

Schedule 1: Community Council names, registered voters and maximum permitted membership

INSERT SCHEDULE 1 – FOLLOWING DECISION AT FULL COUNCIL – REF: APPENDIX 3

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Schedule 2: Code of Conduct

1.0 INTRODUCTION

The Code of Conduct for Community Councillors is based largely on the Code of Conduct for local authority councillors and relevant public bodies as provided for in The Ethical Standards in Public Life etc. (Scotland) Act 2000. The local authority is Dumfries & Galloway Council and is referred to as 'DGC' in this document.

2.0 PRINCIPLES

2.1 As elected representatives of their communities, Community Councillors have a responsibility to make sure they are familiar with, and that their actions always comply with, the principles set out in this Code of Conduct:

- Service to the community (public service)
- Selflessness
- Integrity
- Objectivity
- Accountability and stewardship
- Openness
- Honesty
- Leadership
- Respect.

3.0 SERVICE TO THE COMMUNITY (PUBLIC SERVICE)

3.1 As a Community Councillor you must at all times act within the law and in accordance with the Scheme for the Establishment of Community Councils (hereafter called "the Scheme"), as set out by DGC under the terms of the Local Government (Scotland) Act 1973. You should never do anything as a Community Councillor which you could not justify to the public. Your conduct, and what the public believes about your conduct, will affect your Community Council's reputation. At all times you should avoid any occasion for suspicion and any appearance of improper conduct. If you are in any doubt about your actions, seek advice from the Chair or another Community Councillor or from your own legal adviser.

3.2 You have a duty to act in the interests of the local community which you have been elected or nominated to represent.

3.3 You should ensure that you are, within reason, accessible to the residents living in the Community Council (CC) area as determined by the electoral roll, and put in place various mechanisms to allow the general community to express their views.

4.0 SELFLESSNESS

4.1 You must not use your position as a Community Councillor to gain financial, material,

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political or other personal benefit for yourself, family or friends.

- 4.2 Whilst you should take into account the views of your local community and you may be strongly influenced by the views of others, it is your responsibility to decide what view to take on any question about which Community Councillors have to make a decision.

5.0 INTEGRITY

- 5.1 You must not place yourself under any financial or other obligation to any individual or organisation that might be thought to influence you in your representation of your community. Non-financial interests can be just as important. Private and personal interests include those of your family and friends, as well as those arising through membership of/association with clubs, societies and other organisations.
- 5.2 You should not accept gifts or hospitality that may be seen to influence (or intended to influence) your opinion or judgement. The offer and/or receipt of any gifts, regardless of form, should always be reported to and noted by the CC's Secretary.
- 5.3 Whilst the law does not require you, as a Community Councillor, to disclose your direct and indirect financial interests (including those of a partner with whom you are living) in any matter coming before the CC, nor prohibit you from speaking or voting on that matter, you should behave as if the law* applying to Dumfries & Galloway Councillors applies to you. For guidance on declaration of interests, see Section 5 (pages 13-20) of the Standards Commission for Scotland's Councillors' Code of Conduct (hyperlink below). * www.standardscommissionscotland.org.uk/codes-of-conduct/councillors-code-of-conduct
- 5.4 Where you have declared a private or personal interest, you should decide whether it is clear and substantial. If it is not, then you may continue to take part in the discussion of the matter and may vote on it. If it is a clear and substantial interest then (except in the special circumstances described below) you should never take any further part in the proceedings, and should always withdraw from the meeting whilst the matter is being considered. In deciding whether such an interest is clear and substantial, you should ask yourself whether members of the public and your fellow Community Councillors, knowing the facts of the situation, would reasonably think that you might be influenced by it.

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- 5.5 In the following circumstances it may still be appropriate to speak, and in some cases to vote, in spite of the fact that you have declared such a clear and substantial private or personal interest. If your interest arises:
- in your capacity as a member of a public body, you may speak and vote on matters concerning that body (for this purpose a public body is one where, under the law governing declarations of financial interests, membership of the body would not represent an indirect financial interest);
 - from being appointed by your CC as its representative on the managing committee or other governing body of a charity, voluntary body or other organisation formed for a public purpose (and not for the personal benefit of the members), you may speak and vote on matters concerning that organisation;
 - from being a member of the managing committee, or other governing body of such an organisation, but you were not appointed by your CC as its representative, then you may speak on matters in which that organisation has an interest; you should not vote on any matter directly affecting the finances or property of that organisation, but you may vote on other matters in which the organisation has an interest;
 - from being an ordinary member or supporter of such an organisation (and you are not a member of its managing committee or other governing body), then you may speak and vote on any matter in which the organisation has an interest; OR
 - if at least HALF of the CC would otherwise be required to withdraw from consideration of the business because they have a personal interest.
- 5.6 If you decide that you should speak or vote, despite a clear and substantial personal or private non-financial interest, you should declare at the meeting **before** the matter is considered that you have taken such a decision, and why.
- 5.7 You should always apply the principles about the disclosure of interests to your dealings with DGC Officers, and to your unofficial relations with other councillors at, for example, informal occasions no less scrupulously than at formal meetings of the CC and its Committees.
- 5.8 This guidance also applies to CC Committees but if the Committee is very small, or if a large proportion of members declare a personal interest, it will usually be most appropriate for the matter to be referred to the full CC.
- 5.9 You, or some firm or body with which you are personally connected, may have professional business or personal interests within the CC's area. Such interests may be substantial and closely related to the CC's work.

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You should not seek or accept, membership of the CC or any of its Committees if that would involve you in disclosing an interest so often that you could be of little value to the CC, or if it would be likely to weaken public confidence in the duty of the Community Council to work solely in the general public interest.

- 5.10 You should not seek or accept the role of Chair of the Community Council or one of its Committees if you or anybody with whom you are associated has a substantial financial interest in, or is closely related to, the business or affairs of the CC.

6.0 OBJECTIVITY

6.1 In all your decisions and opinions as a Community Councillor, you must endeavour to represent the overall views of your community, taking account of information which is provided to you or is publicly available, assessing its merit and gathering information as appropriate, whilst laying aside personal opinions or preferences.

6.2 You may be appointed or nominated by your CC to serve as a member of another representative body. You should ensure that this Code of Conduct is observed when carrying out the duties of the other body.

7.0 ACCOUNTABILITY AND STEWARDSHIP

7.1 You are accountable for the decisions and actions that you take on behalf of your community through the CC. You must ensure that the CC uses its resources efficiently, effectively and fairly, strictly for CC business and in accordance with the law.

7.2 Community Councillors will individually and collectively ensure that the CC's business is conducted according to the Scheme and this Code of Conduct.

7.3 Community Councillors will individually and collectively ensure that annual accounts are produced showing the CC's financial undertakings as set out in the Scheme.

7.4 Minutes of meetings recording all actions and decisions made should be produced and circulated to all CC members as soon as possible after each meeting.

7.5 Any breach of the Scheme may be reported to DGC to determine what action, if necessary, should be taken by DGC.

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

8.0 OPENNESS

8.1 You have a duty to be open about your decisions, actions and representations, giving reasons for these where appropriate. You should be able to justify your decisions and be confident that you have not been unduly influenced by the views and/or opinions of

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others.

- 8.2 If you have dealings with the media, members of the public, or others not directly involved in your CC, you should ensure that an explicit distinction is made between the expression of your personal views and opinions from any views or statement made about or on behalf of the CC. Community Councils and Community Councillors should carefully consider any comments/statements they make during meetings, in public, through social media and to the Press, taking into account the standards outlined in this Code of Conduct.

9.0 HONESTY

- 9.1 You have a duty to act honestly. You should treat with extreme caution any offer or gift, favour or hospitality that is made to you personally. There are no hard or fast rules about the acceptance or refusal of hospitality or tokens of goodwill. For example, working lunches may be a proper way of doing business, provided that they are approved by the CC beforehand and that no extravagance is involved. Likewise, it may be reasonable for a member to represent the CC at a social function or event organised by outside persons or bodies.
- 9.2 There may be rules enabling you to claim expenses and allowances in connection with your duties and these rules must be scrupulously observed.
- 9.3 You should always make sure that any facilities (such as transport, stationery, or secretarial services) provided by the CC for use in your duties are used strictly for those duties and for no other purpose.

10.0 LEADERSHIP

- 10.1 You have a duty to promote and support the principles of this Code of Conduct by leadership and example, to maintain and strengthen the community's trust and confidence in the integrity of the CC and its members in representing the views and needs of the local area. You must also promote social inclusion and challenge discrimination in any form.
- 10.2 You should act to assist the CC, as far as possible, in the interest of the whole community that it serves. Where the concerns of particular interest groups are in conflict with those of other groups or other areas, you should help to ensure that the CC is aware of them.

11.0 RESPECT

- 11.1 You must respect fellow members of your CC and those that you represent, treating them with courtesy, respect and in a non-discriminatory manner at all times. This should extend to any person with whom you have dealings in your capacity as a Community Councillor.
- 11.2 Recognition should be given to the contribution of everyone participating in the work of the CC. You must comply with the Equality Act 2010 and ensure that equality of opportunity be given to every participant to have their knowledge, opinion, skills and

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experience taken into account.

- 11.3 You should ensure that confidential material, including details about individuals, is treated as such and that it is handled with dignity and discretion and is not used for personal, malicious or corrupt purposes.

12.0 SANCTIONS

- 12.1 Failure to observe the Code of Conduct may lead to suspension if felt appropriate by the CC. This matter will be decided by a majority of Community Councillors with voting rights.

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Schedule 3 INDEPENDENT COMPLAINTS PROCEDURE

1. INTRODUCTION

This Appendix to the Scheme for the Establishment of Community Councils in Dumfries & Galloway (hereafter called “the Scheme”), gives guidance on how complaints about Community Councils or disputes between members of the Community Council (CC) may be dealt with. The Independent Complaints Procedure forms part of the Scheme, which all Community Councils are required to adhere to. It does NOT apply to:

- Complaints that have been submitted more than 12 months after the complainant became aware of the matter they want to complain about.
- Complaints that are being dealt with by insurers.
- Complaints that are the subject of legal proceedings or statutory procedures.

2. WHAT IS A COMPLAINT?

A complaint is an expression of dissatisfaction about a Community Council or individual Community Councillor, which requires action to remedy, for example:

- Failure to conform to the Scheme or to exercise their purpose under the Scheme.
- Failure to provide information/giving incorrect information.
- Behaviour or conduct of a Community Councillor acting in their role as a Community Councillor.
- The absence of policies or procedures.
- Alleged discrimination, for example on the grounds of race, gender, disability, age, sexual or religious orientation.

If any doubt remains as to whether the complainant’s dissatisfaction qualifies as a complaint, the complainant’s wishes should be respected. If the complainant insists on making a complaint then they should be allowed to do so and have their complaint investigated fairly in all respects.

All complaints should be submitted to the Community Council’s responsible person for complaints and responded to in writing (by e-mail or letter). After receiving a complaint, at all stages communication with the complainant should be by their preferred method: e-mail, letter or telephone. The CC or Community Councillor who is the subject of a complaint will be invited to make representations at all stages of the process.

All timescales are in working days i.e. Monday to Friday. However, some complaints may take a longer period to sort out in which case timescales may be extended and the complainant advised.

3. STAGE 1: LOCAL RESOLUTION

A complaint expressing dissatisfaction about a CC or an individual Community Councillor should be made to the Community Council. Complaints should always be made in writing (by letter or email). The CC’s Secretary would usually be the

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responsible person for dealing with complaints, but another Community Councillor could be appointed. If the complaint is about the responsible person for dealing with complaints, the complaint should be sent to another office bearer.

If a complaint is raised with an elected Member (local Councillor) of Dumfries & Galloway Council (DGC) or an officer of DGC, the complainant shall be advised to submit their complaint directly to the Community Council.

The Community Council should try to resolve any complaint quickly and informally where possible. If it is not possible for immediate resolution, the Community Council shall:

- Appoint an investigating officer and send a written acknowledgement of the complaint within **5 working days**.
- Convene a Special Meeting of the Community Council within **30 working days** of receipt of the complaint to consider the investigating officer's findings. This meeting may be held in private, in compliance with the Scheme. This may require some Community Councillors to be excluded due to conflict of interest e.g. being implicated in the complaint.
- Inform the complainant about the outcome in writing within **42 working days** from the date the complaint was received by the Community Council, advise whether the points of complaint were upheld, not upheld or partially upheld; and give advice on Stage 2 in the event that the complainant is not satisfied with the outcome.
- In the event the timescales cannot be met, write to update the complainant regularly until the outcome of the complaint is available.

4. STAGE 2: APPEAL TO REVIEW PANEL

If a complainant is not happy with the response of the Community Council to the complaint, they may request a referral to a Review Panel. A request for review must be made in writing to the Community Council **within 20 working days** from the date of the written response to the original complaint. The request for a review will be acknowledged in writing by the Community Council within **5 working days** from the date the request is received by the Community Council.

The Review Panel should involve a Chair (not necessarily the Chair of the Community Council) and three Community Councillors from other Community Councils.

The Review Panel shall seek to negotiate an acceptable resolution; and the outcome will be confirmed to the complainant and the Community Council within **35 working days** of the receipt of the request for review and will advise what further action, if any, may be taken in the event that either the complainant or Community Council continues to be unhappy.

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The Review Panel will make recommendations to the Community Council as to further action which may be taken e.g. in the event that complaints are considered vexatious then no further redress would be appropriate.

5. REMEDY & REDRESS

When at any stage a complaint is found to be upheld the response will seek to provide an appropriate resolution. This may include:

- an explanation and an apology;
- a proposal to see an appropriate resolution;
- advice on any changes to be made as a result of the complaint to avoid problems recurring in the future.

Censure or suspension of a community councillor (see below) may be considered at Stage 1 in cases of obvious misconduct, following appropriate checks and approvals before such action is taken.

The Review Panel at Stage 2 may impose sanctions as a result of the complaint and these sanctions may include:

- Censure (an official rebuke or expression of disapproval) but otherwise taking no action against an individual member or a Community Council.
- Suspension for a period not exceeding 6 months of entitlement of a member of a Community Council to act in such capacity.

The Review Panel may make a recommendation to Dumfries & Galloway Council that:

- Any sums payable to the Community Council should be withheld.
- The Community Council should be dissolved in accordance with Section 13.7.5 of the Scheme of Establishment (or as revised).

6. COMPLAINTS RELATING TO FINANCIAL IMPROPRIETY OR CRIMINAL ACTIVITY

Any complaints to the Community Council alleging financial impropriety should be given careful consideration as to decide how to proceed and, if appropriate, DGC Communities Business Management staff should be advised. Upon receipt of complaints making allegations of criminal activity the Community Council should consider whether to involve the Police.

DGC has the right to commission a financial governance audit or other type of independent financial review of the CC if there is suspected financial impropriety. The Council's auditors will have access to the CC's key records and, if appropriate, its accounts and financial arrangements so that the auditors may follow the trail of public money from DGC through the CC to its final destination.

7. INVESTIGATIVE REPORTS

Investigative reports shall be written by the person responsible for investigating a complaint, and will be shared with the complainant.