

**Midlothian Scheme for the Establishment of Community Councils  
(Approved 2023)**

**Revisions**

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## **1. INTRODUCTION**

Community Councils were first established in Scotland following the Local Government (Scotland) Act 1973. Thereafter, the Local Government (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.

The role of Community Councils in Scotland was further strengthened by the Community Empowerment (Scotland) Act 2015 which identified them as community participation bodies.

The Scheme is designed to enable the establishment of Community Councils across Midlothian to provide a common minimum basic framework governing their creation and operation.

## **2. TITLE**

This scheme made under the provisions of Sections 51 and 52 and later amended under Section 53 of the Local Government (Scotland) Act, 1973 may be cited as the 'Scheme for the establishment of Community Councils in Midlothian, 2023'.

## **3. DEFINITIONS**

In this scheme, the following words and expressions shall have the meanings respectively assigned to them that is to say: -

'Act of 1973' means the Local Government (Scotland) Act, 1973.

'Midlothian Council' means Midlothian Council constituted by the Act of 1994.

'Registers of Electors' means the Registers of Electors prepared and published by the Electoral Registration Officer in terms of the Representation of the People Act, 1949, Section 7 (1) (b).

'Liaison Officer' means the official Midlothian Council Officer responsible for liaison with Community Councils.

'Interim Election' means an election held outside the regular schedule, for the purposes of filling vacancies.

'Scheme' means the Scheme for Community Councils in Midlothian, 2023

'Electoral Registers for Community Council areas' means the part of the full Electoral Register that relates to the specific Community Council.

#### **4. REVIEW AND AMENDMENT OF THE SCHEME**

Midlothian Council, having regard to changing circumstances and to any representations made to it, shall from time to time review the Scheme and, where it considers that the Scheme ought to be amended, shall proceed in accordance with the procedure specified in Section 53 of the Local Government (Scotland) Act 1973, as amended by the Local Government (Miscellaneous Provisions) (Scotland) Act 1981. Upon the local authority's revocation of its existing Scheme for the Establishment of Community Councils and decision to make a new Scheme, it shall publish a Public Notice, which shall invite the public to make suggestions as to the content of the scheme, geographical boundaries, and composition of Community Councils etc. Thereafter, a consultation process shall be undertaken prior to its formal adoption by the local authority.

#### **5 STATUTORY PURPOSES**

The statutory purposes of Community Councils 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, coordinate 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'*

#### **6 THE RIGHTS AND RESPONSIBILITIES OF COMMUNITY COUNCILS**

##### **Summary**

A Community Council, which conforms fully to the Scheme, has rights:

- a. to be consulted, and to make representations about planning applications;
- b. to be recognised as a competent body to comment on licensing applications;
- c. to be recognised as an appropriate body to apply for Midlothian Council funding;
- d. to seek information and assistance from Midlothian Council.

The general purpose of Community Councils is to act as a voice for their local area. This will involve them articulating the views and concerns of local people in their area on a wide range of issues of public concern and make representations to their local authority, other public sector bodies, and private agencies.

It is essential that these views be demonstrated to be accurately representative of the community. Community Councils will have recognised consultative mechanisms to validate their views and devise strategies to secure greater involvement by all sectors of the community in place.

Good Practice Guidance, such as the [National Standards for Community Engagement](#) has been produced to help Community Councils to deliver on these responsibilities.

Community Councils may carry out other activities that are in the general interests of the communities they represent, provided these activities fall within the objects of their Constitution and the terms of the Scheme.

There should be mutual engagement in the establishment of working relationships with the local authority, Community Planning Partnership, and other agencies.

In carrying out their activities Community Councils must at all times adhere to the law, the terms of the Scheme, their Constitution, and the Community Councillors' Code of Conduct (Appendix C Code of Conduct).

Each Community Council is required to adopt and regularly review their Constitution, based upon the Model Constitution (in accordance with provisions in Appendix B: Constitution Guidance), which has been produced for national use, together with Model Standing Orders (an example is provided in Appendix C: Standing Orders), to encourage and maintain consistency for all Community Councils and to facilitate their proceedings being properly structured and regulated, to ensure that items of business relevant to the community are properly debated and decisions reached in a democratic manner. The Community Council's Constitution is required to be approved by Midlothian Council.

Amendments to the Community Council's Constitution are required to be approved by the Liaison Officer.

In order to fulfil their responsibilities as effective and representative, Community Councils shall: -

- Inform the community of the work and decisions of the Community Council by posting agendas and minutes of meetings in public places, such as libraries, notice boards and online, subject to the provisions contained within the Data Protection Act 1998 and the General Data Protection Regulations (2018), provide contact details of Community Council members.
- **Agendas & draft** minutes of Community Council meetings must be presented to Midlothian Council within **21** days from the date of that meeting and be circulated to Community Council members, relevant Elected Members, and other interested parties.

- Seek to broaden both representation and expertise by promoting the Associate Membership role of the Community Council of persons for specific projects/issues.
- Make particular efforts to encourage young people and other underrepresented groups to attend/participate in Community Council meetings and to ensure equality of opportunity in the way the Community Council carries out its functions.
- Provide contact information including name, email address and website links to be made publicly available to allow the Community Council to be contacted by members of the public. The Community Council should utilise a generic email address rather than use an officer bearer's personal email address.
- Maintain current and accurate financial records and present financial reports at each Community Council meeting.
- Inform the local authority of any change in membership (resignations, Associate Membership, etc) and circumstances, as soon as is practicable.
- Respond to enquiries and feedback from the community.

### **6.1 Planning**

Community Councils will be consulted on the submission of planning applications for proposed developments that are categorised as being of national or major scale or of significance to the community. Community Councillors may also be invited to attend events held by applicants to inform members of the community about the development proposed prior to submission of a planning application. Community Councils may also request to be consulted on specific applications once the application has been submitted.

Once a planning application is submitted, it will be recorded on the weekly list of applications and the e-planning website compiled by the planning authority and made available to Community Councils. If the Community Council wishes to be consulted on an application not directly referred to it by the planning team, it must timeously contact the planning officer concerned.

To support Community Councillors in this role, the Council will make efforts to brief Community Councillors on new planning legislation when it is enacted. Community Councillors should make themselves available to attend such training sessions where possible.

### **6.2 Licensing**

From time to time, the Licensing Board will also consult on policy issues and will notify Community Councils of all new premises licences and major variation applications.

### **6.3 Participation Requests**

Community Councils are a type of community participation body as defined under the Community Empowerment Act 2015. As a body, they have the authority to make participation requests to a public service authority to permit them to participate in an outcome improvement process.

## **7. MIDLOTHIAN FEDERATION OF COMMUNITY COUNCILS**

Midlothian Council recognises the Midlothian Federation of Community Councils (MFCC) as the representative body for Community Councils in Midlothian. MFCC shall be governed by its own Constitution; with the proviso, that membership and voting at MFCC meetings shall be restricted to representative members of the constituent Community Councils identified in Appendix F only.

MFCC shall provide a representative to attend and participate in the meetings of the Community Planning Working Group (CPWG), which is a component of the Community Planning Partnership (CPP). A Council representative will attend MFCC meetings. MFCC may also have representatives on other bodies as they see fit or are invited to attend.

## **8. COMMUNITY COUNCIL ELECTIONS**

### **8.1 Returning Officer**

The local authority will appoint an Independent Returning Officer. The Independent Returning Officer shall be either an Elected Member or a member of Midlothian Council staff. The Independent Returning Officer must not be a current elected member of that Community Council nor intending to stand for election to that Community Council.

### **8.2 Eligibility**

Candidates aged 18 and over, wishing to stand for election to a Community Council, must reside in the Community Council area, and be named on the Electoral Register for that area. The same criteria shall apply to voters in a Community Council election.

16- and 17-year-olds residing in the Community Council area and named on the Electoral Register for that area are also entitled to both stand for the Community Council and vote in any election. In the case of candidates who are not on the electoral register *solely by reason of age*, the nomination form must be accompanied by a declaration, signed by 2 individuals who are named on the electoral register for the relevant Community Council area in which they reside, confirming that the nominee is a resident of the same Community Council area.

Any Community Council member who no longer resides within that Community Council area is deemed to have resigned from that Community Council. Local authorities can enable community council members who have left the community council area to remain in place until the next election (full or interim) should they wish to.

### **8.3 Ineligibility**

Any individual who is elected to serve on Midlothian Council, 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* members of the Community Councils contained in whole or in part of their electoral constituency.

Any individual, who is either the subject of *bankruptcy proceedings* or who during the *five years prior to the date of nomination has been sentenced to a custodial sentence longer than three months*, shall be ineligible to stand or remain as a Community Councillor.

### **8.4 Elections**

The first elections to be held under the Scheme shall be held on a date to be determined by the local authority.

Subsequent elections will be held on a four-yearly-cycle out with election years or on dates to be determined by the Community Council in agreement with the Local Authority. Should Community Councils' election cycle fall in the year of Scottish local government or parliamentary elections, the electoral proceedings will be held in the following year.

The local authority will administer all elections.

### **8.5 Nominations**

Individuals seeking election to a Community Council require to be nominated by a proposer and seconder, both of whom must be on the Electoral Register for that Community Council area. Nominations require to be submitted with the candidate's consent. Self-nomination is not permitted.

A nomination form should be completed, the style of which is defined in Appendix E Nomination form. Nomination forms require to be submitted by post, email or online to the contact for that Community Council, identified on the Midlothian Council website, no later than 5pm. **7 days prior** to the date of the election. Nomination forms submitted after that date will not be accepted.

## **8.6 Process**

On the expiry of the period for lodging nominations:

- a) Should the number of candidates validly nominated equal or exceed **HALF but** be less than or equal to the total maximum permitted membership as specified in the Constitution for the Community Council area, the said candidates will be declared to be elected and no ballot shall be held.
- b) Should the number of candidates validly nominated exceed the total maximum permitted membership as specified in the Constitution for the Community Council area, arrangements for a poll shall be implemented. At the Poll, each voter shall be entitled to vote for candidates up to the number of vacancies on the community council.
- c) Should the number of candidates to be elected be below **HALF** of the total maximum permitted membership, as specified for the Community Council area, no Community Council will be established at that time. However, that does not preclude the local authority from issuing a second call for nominations for a Community Council area failing to meet the minimum membership requirement within 6 months of the closing date for the registration of the first call for nominations.

## **8.7 Method of Election**

Community councils shall be elected on a simple majority basis. The preferred method of election is using a show of hands at a Public Meeting. However, where appropriate, an alternative method can be approved by the Returning Officer.

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

Casual vacancies on a Community Council may arise in the following circumstances:

When an elected Community Council member submits her/his resignation, when an elected Community Council member ceases to be resident within that Community Council area, when an elected Community Council member has her/his membership disqualified (see section 10 Disqualification).

Should a vacancy or vacancies arise in a Community Council between elections, it shall be a requirement that the Community Council undertake appropriate election/co-option arrangements, in consultation with the local authority. Under certain circumstances, a Community Council may decide not to fill a Casual Vacancy, provided the membership will not fall below **HALF** the membership defined by the Community Council's Constitution. Filling a vacancy can be undertaken either through the process of an interim election or by co-

option. However, should circumstances arise that lead to the number of elected Community Councillors falling below **HALF** of the membership defined by the Community Council's Constitution, the Midlothian Council shall be informed and shall undertake arrangements for an interim election to be held.

#### **8.9 Filling of Office Bearer vacancy**

In the event of an Office Bearer position becoming vacant it must be filled by a current member of the Community Council at the next meeting. In the event that an Office Bearer position cannot be filled the Liaison Officer should be informed

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

Co-opted members must be eligible for membership of the Community Council as detailed in 9.1 Eligibility. They must be elected onto the Community Council by a simple majority of the elected (general and interim) Community Councillors present and voting. Such co-opted members shall have full voting rights, with the exception of voting on co-option of members, and will serve until the next round of elections (general and interim). Notice of any proposed co-option procedure is required to be intimated to all of that Community Council's members at least 14 days prior to the meeting when the matter will be decided.

The number of co-opted members may not exceed a **THIRD** of the current elected (general and interim) Community Council membership. Should the ratio of co-opted to elected Community Councillors become greater than one third, due to any circumstances, an interim election process shall be triggered.

#### **8.11 Additional Membership**

##### **Associate Members**

Associate members may be appointed by a Community Council where there may be a need for individuals with particular skills or knowledge. These individuals do not have voting rights. Associate members may serve for a fixed period as determined by the Community Council or for the term of office of the Community Council that has appointed them. Associate members may also include representation from other constituted local voluntary organisations. The number of Associate members shall not exceed half the number of current Community Councillors in that Community Council.

##### **Ex-officio members**

Midlothian Councillors, MPs, MSPs, and MEPs whose wards or constituencies fall wholly or partly within the geographical area of the Community Council area shall be deemed ex-officio members of the Community Council. Ex-officio members shall have no voting rights on the Community Council.

## **9 EQUALITIES**

The Equality Act 2010 makes it unlawful to discriminate against persons or groups on the grounds of the protected characteristics of race, sex, gender recognition, disability, age, sexual orientation, marriage and civil partnership, pregnancy and maternity, and religion or belief.

Recognition should be given to the contribution of everyone participating in the work of the community council. Community councils must comply with Equal Opportunities legislation and should recognise and value diversity in their membership and in their communities, ensuring that equality of opportunity be given to every resident to have their knowledge, opinion, skill, and experience taken into account.

Consideration must also be given by the Community Council as to their meeting place, whether online or in-person. This must be in terms of accessibility and facilities for disabled users, as well as location, as far as practicable, to ensure that the needs of all members, visiting public or other additional members are met.

## **10 DISQUALIFICATION OF MEMBERSHIP**

Membership of a Community Council is invalidated should a Community Councillor's residency qualification within that Community Council area cease to exist. If any member of a Community Council fails to attend any Community Council meeting, with or without submitting apologies, throughout a period of 6 months, the Community Council may terminate their membership. At the discretion of individual Community Councils, a period of leave of absence for Community Council members may be granted at any meeting of the Community Council.

If a Community Councillor is alleged to be in breach of the Code of Conduct, a formal report shall be submitted to the Liaison Officer who shall investigate and recommend to Midlothian Council, who shall decide whether the Community Councillor should be disqualified from office. The Liaison Officer will be guided by the Chief Executive, or the person nominated by the Chief Executive to do so.

## **11 MEETINGS**

The time, day, and venue for meetings of the Community Council should have regard to the availability of its members and the ease of access of the venue for members of the general public.

Office Bearers shall be elected at the first meeting of a Community Council following a Community Council election.

The frequency of meetings will be determined by each Community Council, subject to a minimum of one Annual General Meeting and 6 ordinary meetings being held each

year. The Annual General Meeting shall be held in a month of each year to be determined by the Community Council Constitution.

The quorum for Community Council meetings shall be one third of the current voting membership of a Community Council, or 3 voting members, whichever is the greater.

An outline for the content of business that Community Councils should adhere to when holding ordinary, special, and annual general meetings is contained within the Standing Orders (Appendix C).

### **Virtual Meetings**

Community Councils may decide to take an in-person, online or hybrid approach to their meetings, and the platform to be used for any meeting is for the Community Council to decide.

Virtual meetings may include members of the public where this can be accommodated, but this is not mandatory and for each Community Council to determine.

Whether or not they are able to attend, proper provision must be made to afford members of the public the opportunity to address the Community Council as set out in the following paragraph.

An agenda for the meeting shall be published in the usual way and all members of the Community Council and members of the public invited, in advance, to submit comments on any agenda item to the Community Council's generic email address or by other appropriate means; such views to be considered by the members dealing with the items of business. Comments may also be submitted during the meeting itself, but the ability to receive comments in advance will assist the Community Council in managing a remote meeting.

Minutes of the meeting and details of any decisions taken must be recorded, in writing, in the usual way and made publicly available. Video or audio recording of meetings can only take place with the clear consent of all present, such consent to be recorded in the written minutes.

## **12 LIAISON WITH THE LOCAL AUTHORITY**

In order to facilitate the effective functioning of Community Councils, Midlothian Council has identified an official to act as a Liaison Officer with Community Councils. The Liaison Officer will be guided by the Chief Executive, or the person nominated by the Chief Executive to do so. Unless there is a specific agreement or an issue is a specific departmental issue, all correspondence between Midlothian Council and the

Community Councils should, in the first instance, be directed through the Liaison Officer.

Community Councils may make representations to Midlothian Council and other public and private agencies, on matters for which it is responsible and which it considers to be of local interest. Representations should be made, in the case of statutory objections, such as planning or licensing matters, to the appropriate Midlothian Council official. On issues where a Midlothian Council department is consulting with Community Councils, representations should be made to the appropriate departmental officer.

Community Councils shall provide copies of their minutes within **21** days of the meeting being held to the Council via the Liaison Officer.

### **13 RESOURCING A COMMUNITY COUNCIL**

The financial year of each Community Council shall be provided for in the Constitution of each Community Council and shall be from 1<sup>st</sup> April to 31<sup>st</sup> of March in the following year. A statement of audited and verified accounts must be submitted at the Community Council's Annual General Meeting.

The Annual Accounts of each Community Council shall be independently examined and verified by an appropriate person, who is not a member of that Community Council. A copy of the independently examined statement of accounts/balance sheet shall be forwarded to the Liaison Officer after the statement is approved at the Community Council's Annual General Meeting, to the Liaison Officer. **Failure to submit verified accounts will disqualify eligibility to receive administrative grant funding support from Midlothian Council.**

The Liaison Officer may, at their discretion and in consultation with Midlothian Council's Chief Financial Officer, require the Community Council to produce such records, vouchers, and account books, as may be required.

Each Community Council shall have the power to secure resources for schemes, projects, and all other purposes consistent with its functions.

**The Council may provide an annual administrative grant to Community Councils. The purpose of the grant is to cover the operating costs and publicising the work of the Community Council within the Community Council area.**

**The grant shall be fixed at a minimum flat rate of £ (to be determined by the local authority) with an additional amount (to be determined by the local authority) per head of population.**

Midlothian Council shall determine any additional support services/resourcing, such as free lets of rooms for Community Council meetings, to suit local requirements. Midlothian Council will review the level of annual administrative grant and other support to Community Councils during each term of Midlothian Council.

#### **14 TRAINING**

The Liaison Officer shall facilitate advice and assistance to Community Councils and arrange for the establishment of a training programme and/or conferences for Community Councils on the duties and responsibilities of Community Council Office Bearers, the role of Community Councils, the functions of the local authority and other relevant topics.

#### **15 PUBLICITY**

Midlothian Council shall allocate space on the Council website for the provision of Community Council contact details and the promotion of Community Council activities according to demand.

#### **16 LIABILITY OF COMMUNITY COUNCIL MEMBERS AND FEDERATION**

Insurance is required for a Community Council to be operational. Midlothian Council will arrange for payment of premiums of insurance liability cover for Community Councils, Midlothian Federation of Community Councils, and Community Councillors.

#### **17. AMENDMENT TO THE BOUNDARIES AND COMPOSITION OF COMMUNITY COUNCILS**

Proposals to amend the boundaries and/or composition (merger) of Community Councils can be initiated by:

- Midlothian Council
- Any of the affected Community Councils

The proposal shall be submitted in writing to the Liaison Officer for the process to be initiated. As part of the process, all affected Community Councils shall be informed, prior to publication of a public notice for a consultation period of 90 days. Community Councils should co-ordinate responses received during the consultation process and provide these comments to Midlothian Council and any affected community Councils.

Subsequently, each affected Community Council will be required to call a public meeting and hold a show of hands vote to approve the proposal.

If all affected Community Councils approve the proposal, it will be formally submitted to Midlothian Council for consideration at a special meeting of Midlothian Council within 90 days of submission.

The Head of Legal Services will notify all affected Community Councils of the outcome following the special meeting of Midlothian Council.

In the event of a merger between 2 Community Councils, members are advised that 'good practice' will involve representatives of both Community Councils forming a working group to discuss and organise the development of governance procedures such as a draft Constitution, Standing Orders for approval and sign-off at the first public meeting.

## **18 DISSOLUTION OF A COMMUNITY COUNCIL**

The terms for dissolution of a Community Council are contained within the Constitution of the Community Council.

Notwithstanding these terms, should a Community Council fail to hold a meeting for a period of 3 consecutive prescribed meeting dates, or its membership falls below the prescribed minimum for a period of 3 consecutive prescribed meeting dates (during which time the Community Council and Midlothian Council have taken action to address the situation), Midlothian Council shall take action to dissolve that Community Council.

## **19 ESTABLISHMENT OR RE-ESTABLISHMENT OF A COMMUNITY COUNCIL**

Twenty or more electors are required for the establishment or the re-establishment of a Community Council for the area. These electors shall submit a requisition to the local authority in accordance with Section 52(7) of the Local Government (Scotland) Act 1973, on receipt of which the Returning Officer shall arrange for elections to be held in accordance with the Scheme for the Establishment of Community Councils.

The first (inaugural) meeting of every newly established Community Council will be called by Midlothian Council and will take place within one calendar month from the date of the election.

The business of the first meeting for all Community Councils will include adoption of a Constitution and Standing Orders, appointment of Chairperson, Vice-Chairperson, Secretary/Minute Secretary, and Treasurer and any outstanding business matters from the outgoing Community Council.

Adoption of the Constitution, approved by Midlothian Council, should be in place within 3 months of the Community Council's inaugural meeting.

For the purposes of the initial election, the number of Community Councillors to be elected shall be defined by Midlothian Council. This number shall not exceed the number specified in Appendix E and shall be appropriate to size of the population of

the Community Council area. The first order of business of the new Community Council shall be to establish a new Constitution.

### **19.1 Nominations**

Individuals seeking election at the establishment of a Community Council require to be nominated by a Proposer and Secunder, both of whom must be on the Electoral Register for that Community Council area. Nominations require to be submitted with the candidate's consent. Self-nomination is not permitted.

### **19.2 Process**

On the expiry of the period for lodging nominations:

Should the number of candidates validly nominated equal or exceed HALF, but less than or equal to the total maximum permitted membership as specified in the Constitution for the Community Council area, the said candidates will be declared to be elected and no vote shall be held.

### **19.3 Method of Elections**

Community Councils shall be elected on a simple majority basis.

The preferred method of election is using a show of hands at a Public Meeting. However, where appropriate, an alternative method can be approved by the Returning Officer.

### **19.4 Election of Office Bearers**

Office Bearers shall be elected according to the new Constitution. Only Community Councillors elected at the inaugural meeting will be permitted to vote for the election of Office Bearers

## **APPENDIX A - MEMBER DEFINITIONS & NOMINATION FORM**

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

### **A 1 Community Councillors**

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

### **A 2 Other Members**

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

## **APPENDIX B - CONSTITUTION GUIDANCE**

The Scottish Government has provided a 'Model' Constitution that can be used as guidance to help in writing and updating your Community Council Constitution. Each Community Council is responsible for writing and approving its own Constitution in accordance with requirements of the Scheme. Once approved at a meeting of the Community Council, the revised Constitution must be submitted to the Liaison Officer for approval. This approval is to confirm that the Constitution complies with the requirements of the Scheme.

In general, a Community Council Constitution will address at least the following topics, although additional topics may be relevant in specific circumstances:

**1. Name**

'The name of the Community Council shall be .....  
(referred to as 'the Community Council' in this document).'

**2. Area**

'The area of the Community Council shall be as shown on the map attached to Midlothian Council's Scheme for Community Councils'.

**3. Objectives**

This should cover the standard objectives regarding representing the views of the community, acting to promote and improve the well-being of the Community, fostering a community spirit etc, along with any specific objectives that the Community Council may have (e.g., relating to local activities and events that it wishes to support).

**4. Role and responsibilities**

It is the role of a Community Council to take such action in the interests of that community as appears to it to be expedient and practicable. This topic is primarily covered by the Code of Conduct (Appendix D) which should be referenced.

**5. Membership**

The Scheme defines a maximum number of Community Councillors (excluding Associate and ex-officio members) that the Community Council may have. The Constitution may set a lower limit, consistent with the population and size of the area to be represented, provided this is adequate to represent the geographic area e.g., 5 or 6 as a minimum. The number of Associate members is defined by the Scheme on the basis of the number of elected members, and the eligible ex-officio members are defined by statute, so these do not require to be identified in the Constitution. The Community Council must have a Chair, Secretary, and Treasurer, which sets the absolute minimum membership at 3 elected members.

**6. Method of Election**

This should reference the Election methods defined in 8.7 'Method of Election'.

## **7. Casual Vacancies**

The Scheme allows for co-option or interim election, or for vacancies to remain unfilled. The Community Council Constitution can specify which of these approaches may be used.

## **8. Voting Rights**

This will specify the voting rights of elected (including interim and co-opted) members, in accordance with the Scheme. It will also normally assign a casting vote to the Chairperson.

## **9. Election of Office Bearers**

At the first meeting following the AGM, Office bearers will be elected. This paragraph should specify the election procedure, term of office, and which posts (if any) are eligible for re-election. The Constitution may specify the maximum period for which the same person may hold the same office continuously.

## **10. Committees of the Community Council**

Specifies whether the Community Council is able to create Committees for specific purposes. Even if this is not envisaged, it is reasonable to allow this in the Constitution as a future possibility.

## **11. Meetings of the Community Council**

This should specify at least: the quorum (in accordance with the Scheme, and taking into account the number of elected members); The schedule for holding an Annual General Meeting; The number and timing of meetings to be held each year; The approval and circulation of the minutes; observance of the Standing orders; the process for the public to petition the Community Council to debate a specific issue; and the process to allow specific topics to be discussed in private; recognition that meetings may be held in person or by digital means or by telephone

### **Virtual Meetings**

Community Councils may decide to take an in-person, online or hybrid approach to their meetings, and the platform to be used for any meeting is for the Community Council to decide.

Virtual meetings may include members of the public where this can be accommodated, but this is not mandatory and for each Community Council to determine.

Whether or not they are able to attend, proper provision must be made to afford members of the public the opportunity to address the Community Council as set out in the following paragraph.

An agenda for the meeting shall be published in the usual way and all members of the Community Council and members of the public invited, in advance, to submit comments on any agenda item to the Community Council's generic email address or by other appropriate means; such views to be considered by the members dealing with the items of business. Comments may also be submitted during the meeting itself, but the ability to receive comments in advance will assist the Community Council in managing a remote meeting.

Minutes of the meeting and details of any decisions taken must be recorded, in writing, in the usual way and made publicly available. Video or audio recording of meetings can only take place with the clear consent of all present, such consent to be recorded in the written minutes.

**12. Public Participation in the Work of the Community Council**

Define that meetings are open to the public (except where specified in accordance with paragraph 11 above).

**13. Information to Midlothian Council**

Specifies the requirement to notify the Liaison Officer about the annual calendar of scheduled meetings, AGM, Minutes, and to give at least 10 days' notice of Special meetings.

**14. Control of Finance**

Specifies that all monies from whatever source are solely to further the objectives of the Community Council. It is therefore important to ensure that the Objectives are adequately defined by the Constitution. **Specifies the role of the Treasurer to keep proper accounts. The requirement for an update on the balance of accounts to be presented at each meeting. The signatory requirements to withdraw funds whether by cheques or by BACS payment, along with the need to prepare independently examined and verified accounts for the AGM.**

**15. Title to Property**

This would typically vest the rights to property in the Office Bearers of the Community Council and their successors.

**16. Alterations to the Constitution**

Defines the process for altering this Constitution, the voting requirements, and the submission for Approval by the Liaison Officer.

**17. Dissolution**

Specifies the procedure should a Community Council desire to dissolve and accounts for the transfer of assets to Midlothian Council (in trust for a future Community Council representing that area).

**Note** that as described in Section 18 'Dissolution of a Community Council', the Scheme allows Midlothian Council to dissolve a Community Council, under specific circumstances, regardless of the Constitution. (If the membership falls below a certain level it may not be practical or possible to comply with the wording of this part of the Constitution).

**APPENDIX C - STANDING ORDERS**

This is an example of the format and content of the Standing Orders, which a Community Council is expected to adopt. Community Councils are free to adopt these as written or make adaptation to suit specific local circumstances.

**C.1 Meetings (all held in public, except for private matters as specified in the Constitution)**

- (a) Ordinary meetings of the Community Council shall be held in the months of ..... **[To be entered]**. Special Meetings may be called at any time on the instructions of the Chairperson of the Community Council on the request of not less than one-half of the total number of Community Council members; or the receipt of a common written request (petition), signed by at least 20 persons, resident within the Community Council area, to convene a special meeting for a particular matter or matters to be debated, it shall call such a meeting. A special meeting shall be held within 14 days of the receipt of the request made to the Secretary of the Community Council. Annual General Meetings are held annually.
- (b) The notice of ordinary and annual general meetings of the Community Council, featuring the date, time, and venue, shall be provided to each Community Council member and the Liaison Officer by the Secretary of the Community Council, at least 10 days before the date fixed for the meeting.
- (c) **If Community Councils cannot meet in person the platform to be used for any virtual meeting is for the Community Council to decide.**

**Virtual meetings may include members of the public where this can be accommodated.**

**Whether or not they are able to attend, proper provision must be made to afford members of the public the opportunity to address the Community Council as set out in the following paragraph.**

**An Agenda for the meeting shall be published in the usual way and all members of the Community Council and members of the public invited, in advance, to submit comments on any Agenda item to the Community Council’s generic email address or by other appropriate means; such views to be considered by the members dealing with the items of business.**

**Comments may also be submitted during the meeting itself, but the ability to receive comments in advance will assist the Community Council in managing a remote meeting.**

Minutes of the meeting and details of any decisions taken must be recorded, in writing, in the usual way and made publicly available. Video or audio recording of meetings can only take place with the clear consent of all present, such consent to be recorded in the written minutes.

## **C.2 Minutes**

Minutes of the proceedings of a meeting of the Community Council shall be drawn up within 21 days from the date of that meeting, distributed in accordance with paragraph 5 of the Scheme of Community Councils and shall, following their approval, be signed at the next meeting of the Community Council by the person presiding thereat and retained for future reference.

## **C.3 Quorum**

A quorum shall be one-third of the current voting membership of the Community Council, or 3 voting members, whichever is the greater.

## **C.4 Order of Business**

### **(i) Ordinary Meeting**

The order of business at every ordinary meeting of the Community Council shall be as follows: -

Recording of membership present and apologies received.

- a. Visitor Matters, for short topics, nor exceeding 30 minutes total.
- b. The minutes of the last meeting of the Community Council shall be submitted for approval.
- c. An update on the balance of accounts will be provided at each meeting.
- d. Any other item of business, which the Chairperson has directed, should be considered.
- e. Any other competent business.
- f. Questions from the floor.
- g. Chairperson to declare date of next meeting and close meeting.

### **(ii) Annual General Meeting**

It will not be uncommon that the Community Council has arranged for an ordinary meeting of the Community Council to begin at the close of the Annual General Meeting, to enable any outstanding reporting on business matters to be heard; and for Community Council members and members of the public to have an opportunity to bring matters to the attention of the Community Council, possibly for inclusion on a future agenda.

The order of business at every annual general meeting of the Community Council shall be as follows: -

- (a) Recording of membership present and apologies received.
- (b) The minutes of the last Annual General Meeting of the Community Council shall be submitted for adoption.
- (c) Chairperson's Annual Report (and questions from the floor).
- (d) Secretary's Annual Report (and questions from the floor).
- (e) Treasurer's submission of Balance Sheet and Annual Accounts duly independently examined and certified correct (and questions from the floor).
- (f) Demit of current office bearers/election of office bearers.
- (g) Chairperson to declare date of next annual general meeting and close meeting.

**(iii) Extraordinary General Meeting**

The order of business at every extraordinary general meeting of the Community Council shall be as follows: -

- (a) Recording of membership present and apologies received.
- (b) Business for debate, as described in the calling notice for the special meeting.
- (c) Chairperson to close meeting.

**C.5 Order of Debate**

- (a) The Chairperson shall decide all questions of order, relevancy, and competency arising at meetings of the Community Council and her/his ruling shall be final and shall not be open to discussion. In particular, the Chairperson shall determine the order, relevancy, and competency of all questions from the public in attendance at meetings of the Community Council raised at 4, above. The Chairperson in determining the order, relevance and competency of business and questions shall have particular regard to the relevance of the issue to the community and ensure that the discussion and proceedings are conducted in such a manner that decisions are reached in a democratic manner. The Chairperson shall have the power, in the event of disorder arising at any meeting, to adjourn the Community Council meeting to a time he/she may then, or afterwards, fix.
- (b) Every motion or amendment shall be moved and seconded.
- (c) After a mover of a motion has been called on by the Chairperson to reply, no other members shall speak to the question.
- (d) A motion or amendment once made and seconded shall not be withdrawn without the consent of the mover and seconder thereof.
- (e) A motion or amendment, which is contrary to a previous decision of the Community Council, shall not be competent within six months of that decision.

## **C.6 Voting**

- (a) Voting shall be taken by a show of hands of those present and eligible to vote, with the exception that, at an annual general meeting, the election of office bearers may be held by secret ballot.
- (b) The Chairperson of a meeting of the Community Council shall have a casting vote as well as a deliberative vote.

## **C.7 Alteration of Standing Orders**

A proposal to alter these Standing Orders may be proposed to the Midlothian Council to be altered or added to at any time by the Community Council, if notice of motion to that effect is given at the meeting of the Community Council before that at which the motion is discussed. The local authority shall have final discretion on any proposed change.

## **C.8 Committees**

The Community Council may appoint such committees as it may from time to time decide and shall determine their composition, terms of reference, duration, duties, and powers.

## **C.9 Suspension of Standing Orders**

These Standing Orders shall not be suspended except at a meeting at which three-quarter of the total number of Community Council members are present and then only if the mover states the object of his motion and if two-thirds of the Community Council members present consent to such suspension.

## **APPENDIX D - CODE OF CONDUCT**

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.

Community Councillors, as elected representatives of their communities, have a responsibility to make sure that they are familiar with, and that their actions comply with, the principles set out in this Code of Conduct. The Code of Conduct and its principles shall apply to all Community Councillors and those representing the Community Council.

These principles are as follows:

- Service to the Community (Public Service)
- Selflessness/Altruism
- Integrity
- Objectivity
- Accountability and Stewardship
- Openness
- Honesty
- Leadership
- Respect

### **D.1 Service to the Community**

As a Community Councillor, you have a duty to act in the interests of the local community, which you have been elected or nominated to represent. You also have a duty to act in accordance with the remit of the Councils Scheme for the Establishment of Community Councils, as set out by your local authority under the terms of the Local Government (Scotland) Act 1973.

You have a duty to establish and reflect, through the Community Council, the views of the community as a whole, on any issue, irrespective of personal opinion.

You should ensure that you are, within reason, accessible to your local community and local residents. Various mechanisms to allow the general community to express their views, i.e., suggestion boxes, community surveys, opinion polls should, where possible, be made available.

### **D.2 Selflessness/Altruism**

You have a duty to take decisions solely in terms of the interest of the community that you represent. You must not use your position as a Community Councillor to gain financial, material, political or other personal benefit for yourself, family, or friends.

### **D.3 Integrity**

You must not place yourself under any financial or other obligation to any individual or organisation that might reasonably be thought to influence you in your representation of your community. If you have any private and/or personal interest in a matter to be considered by the Community Council, you have a duty to declare this and if deemed necessary by other members, withdraw from discussions and the decision-making process with regard to that matter.

You should not accept gifts or hospitality that may be seen to influence or be 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 Secretary of the Community Council.

### **D.4 Objectivity**

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.

You may be appointed or nominated by your Community Council 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.

You are free to have political and/or religious affiliations; however, you must ensure that you represent the interests of your community and Community Council and not the interests of a particular political party or other group.

### **D.5 Accountability and Stewardship**

You are accountable for the decisions and actions that you take on behalf of your community through the Community Council. You must ensure that the Community Council uses its resources prudently and in accordance with the law. If you are unsure about relevant legal requirements, you should contact Midlothian Council's Communities Lifelong Learning and Employability team for clarification in the first instance.

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

Community Councillors will individually and collectively ensure that Annual Accounts are produced showing the financial undertakings of the Community Council as set out in the Councils Scheme for Community Councils. They must also ensure that all resources are used efficiently, effectively, and fairly and are used strictly for the purposes of Community Council business and for no other purpose.

Minutes of Meetings recording all actions and decisions made should be produced and circulated to all members of the Community Council within 21 days of each meeting.

Complaints about the Community Council or individual Community Councillors should be handled in accordance with the Community Councils Complaints Procedure (see the final paragraph of this Code of Conduct).

Any breach of the Council's Scheme for Community Councils as set out by your local authority under the terms of the Local Government (Scotland) Act 1973 may be reported to your local authority to determine what action, if necessary, should be taken.

#### **D.6 Openness**

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 others.

If you have dealings with the Media, members of the public, or others not directly involved in your Community Council, 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 Community Council.

#### **D.7 Honesty**

You have a duty to act honestly. You also have an obligation to work within the law at all times. You must declare any private interest relating to your Community Council duties and take steps to resolve any conflicts arising in a way that protects the interest of the community and the Community Council. If you are unsure about conflicts of interest, you should contact Midlothian Council's Communities Lifelong Learning and Employability Team in the first instance for clarification.

## **D.8 Leadership**

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 Community Council 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.

You should act to assist the Community Council, as far as possible, in the interest of the whole community that it serves. Where particular interest groups' concerns are in conflict with those of other groups or other areas you should help to ensure that the Community Council is aware of them.

## **D.9 Respect**

You must respect fellow members of your Community Council 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, regardless of their position; you have dealings within your capacity as a Community Councillor.

Recognition should be given to the contribution of everyone participating in the work of the Community Council. You must comply with Equal Opportunities legislation and ensure that equality of opportunity be given to every participant to have their knowledge, opinion, skill, and experience taken into account.

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.

### **Community Councils Complaints Procedure**

Any complaints about a Community Council or individual Community Councillor(s), for example about an alleged breach of the Code of Conduct, should be made in accordance with the Community Councils Complaints Procedure outlined on the Community Council page on the Midlothian Council website.

**ELECTION OF COMMUNITY COUNCILLORS - NOMINATION FORM**

*Insert Name of Community Council Here*

**Day and Date of Election**

**Candidate's Details**

**Candidate's Surname**

**Other names in full**

**Commonly used surname (if any)**

**Commonly used forenames (if any)**

**Home address in full (including postcode)**

*I, the nominee for election, consent to being nominated as a candidate for the*

*(Insert Name of Community Council Here)*

*I declare that I am qualified to be elected. I am registered on the Midlothian Register of Electors and eligible to be elected to:*

*(Insert Name of Community Council here)*

*I declare that I am not disqualified from being nominated as a candidate for Community Council elections in Midlothian:*

- a. as detailed in the Midlothian Scheme for Community Councils
- b. by reason of holding a politically restricted post in Midlothian
- c. by reason of being the subject of bankruptcy proceedings
- d. by reason of having had a custodial sentence of longer than 3 months in the past 5 years

**Candidate's Signature**

**Date**

**Witness:** *I confirm the above-mentioned candidate signed the declaration in my presence.*

**Witness's signature**

**Witness (name in full)**

**of (address in full**

**Date**

DETAILS OF NOMINATORS			
<b>Nominator 1</b>			
<i>I declare that to the best of my knowledge this candidate is resident in the Community Council area and is eligible<sup>1</sup> to stand as a candidate. I also declare I am on the <b>Midlothian Register of Electors</b> for the above-named Community Council area and therefore eligible to nominate them to stand for election.</i>			
<b>Name</b>			
<b>Address</b>			
<b>Occupation</b>			
<b>Date</b>		<b>Signature</b>	
<b>Nominator 2</b>			
<i>I declare that to the best of my knowledge this candidate is resident in the Community Council area and is eligible<sup>2</sup> to stand as a candidate. I also declare I am on the <b>Midlothian Register of Electors</b> for the above-named Community Council area and therefore eligible to nominate them to stand for election.</i>			
<b>Name</b>			
<b>Address</b>			
<b>Occupation</b>			
<b>Date</b>		<b>Signature</b>	

Please deliver to the **designated contact point** by the last day for the delivery of nominations. (7 days before the date of the election)

Community Council Liaison Officer  
 Communities, Lifelong Learning and Employability Team  
 Fairfield House  
 8 Lothian Road  
 DALKEITH  
 EH22 3AA *or*

Email to [cll@midlothian.gov.uk](mailto:cll@midlothian.gov.uk)

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<sup>2</sup> Eligibility rules include residency in the specific Community Council Area and aged 16 years or over on the date of the election.

## **APPENDIX F - COMMUNITY COUNCIL AREA MAPS**

The Community Council areas are defined by the maps shown in this Appendix to the Scheme, which supersedes the text descriptions that were used in the 1976 Scheme. The maps included in the 2013 Scheme are taken from the previous textual description and have been certified by Midlothian Council to be a true representation of the previously defined areas.

Any subsequent amendment of the areas (in accordance with the procedure defined in the Scheme) if acceptable to Midlothian Council will be reflected in an update to this Appendix. For efficiency, minor updates to boundary areas that are with the Planning system, following each agreed change.

*Separate document - to be added when completed.*