



2021 Scheme for the establishment of
community councils in west lothian

FINAL SCHEME FOR THE ESTABLISHMENT OF COMMUNITY COUNCILS IN WEST LoTHIAN 2021

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.

The Model Scheme for Community Councils in Scotland, upon which West Lothian's Scheme is largely based, is designed to enable the establishment of community councils across Scotland to provide a common minimum basic framework governing their creation and operation.

2. Statutory Purposes

The statutory purposes of community councils established under the Model 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”

3. The Role and Responsibilities of Community Councils

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 on matters within their sphere of interest.

Community councils should not get involved in matters or campaigns that are not the evident will of the majority of the community such as individual householder planning applications. This will ensure that community councils can focus on those matters affecting or likely to affect their whole community.

It is essential that these views be demonstrated to be accurately representative of the community. Accordingly, community councils are encouraged to follow the

guidance contained in the Engaging Communities Toolkit: A Practical Guide to Community Engagement – First Edition 2015, or any subsequent edition of a similar documents. Matters reported to West Lothian Council where it can be demonstrated this guidance has been followed will be deemed to be a statement by the community as a whole

The Engaging Communities Toolkit, developed in conjunction with the Community Engagement Team, using elements from the community planning partnership's community engagement plan, will support the scheme. This will help community councils by suggesting appropriate levels/methods of community engagement depending on the issue under consideration.

Community councils have a statutory right to be consulted on planning applications. Licensing matters and any other matters may also be jointly agreed between community councils, the local authority and other public sector and private agencies.

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 Council's Scheme for the Establishment of Community Councils.

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

In carrying out their activities community councils must at all times adhere to the law, including public sector equalities legislation, the terms of the Council's Scheme for the Establishment of Community Councils and the Community Councillors' Code of Conduct.

Following an election, every community council will automatically adopt the model constitution and standing orders provided by West Lothian Council as its basic set of rules. Nothing in the model constitution and standing orders can be removed. However, community councils will be able to add additional clauses they consider essential. Any variations to the constitution will require approval of West Lothian Council to ensure the proposals are acceptable and remain within the spirit of the scheme.

This will lead to consistency for all community councils and will 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.

Community councils have a duty under statute to represent the views of their local community. It is vital therefore, that they reflect the broad spectrum of opinion and interests of all sections of the community. In order to fulfil their responsibilities as effective and representative, community councils shall: -

- Inform the community it represents of the work and decisions of the community council by posting up to date agendas and minutes of meetings in public places or via online platforms such as websites, social media, etc.

Subject to the provisions contained within the Data Protection Act 1998. Community councils should set up a generic email address and make that freely available to ensure there is an easy means for residents to get in touch and raise local matters with the community council. Permission should also be granted for West Lothian Council to publish that email address on the list of community council contacts it publishes on its website.

- Agendas and draft minutes of community councils' meetings must be presented to the local authority no less than 4 days before the date of each 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 of the community council of persons for specific projects/issues.
- Make particular efforts to encourage young people and other under-represented groups to attend/participate in community council meetings and to ensure equality of opportunity in the way the community council carries out its functions.
- Maintain proper financial records and present financial reports at community council meetings. An example of a standard format for community councils' financial record-keeping is featured in West Lothian Council's Community Council Guidance Notes.
- Inform the local authority of any change in membership (resignations, Associate Membership, etc.) and circumstances, as soon as is practicable.
- Seek to engage with the Joint Forum of Community Councils in West Lothian and the West Lothian Community Planning Partnership.

4. Community Council Areas within Local Authority Areas

The local authority has produced a list of named community council areas and a map or maps that define their boundaries. The list of 39 community areas can be seen by visiting www.westlothian.gov.uk/communitycouncils

5. Membership of Community Councils

There shall be minimum and maximum membership numbers of elected community councillors in a community council.

The minimum number of members on a community council in West Lothian will be 4.

The maximum number of members on each community council will vary depending on population figures as follows:-

Population below 2000 – Maximum of 8 Members
Population between 2001 and 5000 – Maximum of 12 members
Population above 5001 – Maximum of 18 members

West Lothian Council has the power to alter the approved size of individual community councils. However, they will consist of a maximum of either 8, 12 or 18 members.

Any community council that wishes their maximum number to be increased during their term should write to West Lothian Council setting out the reasons for their request.

The minimum age to stand for election as a community councillor is 16 years. Qualification for membership is by residency within the specific community council area. Community councillors and candidates for community council membership must also be named on the electoral register for the community council area in which they reside. -

West Lothian Council has agreed to allow the continuation of youth members between the ages of 14-16 in its new scheme. Every community council can have up to a maximum of 4 youth members. Youth members will be able to join once proof of age and residency has been provided to the Independent Returning Officer.

Youth members have full voting rights and are in addition to the membership numbers prescribed in Paragraph 5. Youth members will be eligible to hold an office-bearer position, except that of treasurer. This is due to bank regulations which restrict many club and association accounts/cheque books to over 18s only.

Elected members of the local authority and members of the Scottish and United Kingdom Parliaments are ex-officio members of relevant community councils, with no voting rights. A broad outline of the remit and responsibilities of each of these institutions is featured in the Guidance Notes produced by the Scottish Government.

6. Establishment of Community Councils under the Model Scheme

Upon the local authority's decision to revoke its existing Scheme for the Establishment of Community Councils and to make a new Scheme, it shall publish a Public Notice, which shall invite the public to make suggestions as to the areas and composition of the community councils. Thereafter, a consultation process shall be undertaken prior to its formal adoption by the local authority.

7. Community Council Elections

Eligibility

Candidates wishing to stand for election to a community council must reside in the local area and be named on the Electoral Register for that area. The same criteria shall apply to voters in a community council election.

Youth members between the ages of 14-16 will be eligible to stand for election once proof of age and residency has been provided to the Independent Returning Officer.

Any community council member who no longer resides within that community council area is deemed to have resigned from that community council.

Any individual who is elected to serve on this local authority, or the Scottish or UK 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. Ex officio members cannot be appointed an office-bearer of a community council.

Nominations and Elections

The first elections to be held under the new Scheme shall be held in October 2021.

Subsequent elections will be held on a four-yearly-cycle, outwith local government election years, on dates to be determined by the local authority. Where the number of established community councils exceeds a level to be determined by the local authority, elections for a proportion of the total number of established community councils within the 4-yearly cycle may be arranged. Should community councils' election cycle fall on the day of Scottish local government or parliamentary elections, the electoral proceedings for community councils will be held in the following year.

The local authority will administer all elections.

Returning Officer

The local authority will appoint an Independent Returning Officer. The Independent Returning Officer will be the Chief Executive of West Lothian Council or his/her nominee.

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 will be described within the Guidance Notes. Nomination forms require to be submitted on the date set down in the election timetable. No nomination forms submitted after that date will be accepted.

Process

On the expiry of the period for lodging nominations:

1. Should the number of candidates validly nominated equal or exceed 4, the minimum number of members, but be less than or equal to the maximum number of members permitted for the area, the said candidates will be declared to be elected and no ballot shall be held.
2. Should the number of candidates validly nominated exceed the total maximum number of members permitted for the 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. The candidate with the most votes shall be elected on to the community council then the candidate with the second most votes shall be elected and so on until all vacancies are filled.
3. Should the number of candidates elected be below 4, the minimum size, 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.

Method of Election

Elections will be based on whole local authority areas or devolved administrative areas, as deemed appropriate. Ideally, elections will take place across whole local authority areas at one time. However, large local authorities may need to take an incremental approach to elections across their area, over a specified period of time or cycle. Community councils shall be elected on a simple majority basis.

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 (Clause 9).

Should a vacancy or vacancies arise on a community council between elections, it shall be a requirement that the community council undertake appropriate arrangements to fill the vacancy by co-option, in consultation with the local authority. However, should circumstances arise that lead to the number of elected community councillors falling below the minimum of 4 members, the local authority shall be informed, and shall offer advice and assistance for advertising for additional members as described within West Lothian Council's Community Council Guidance Notes.

Co-option to Community Councils

Co-opted members must be eligible for membership of the community council as detailed in Section 5 of the Community Council Scheme. They must be proposed, seconded and elected onto the community council by a two-thirds majority of the elected community councillors present and voting. Such co-opted members shall have full voting rights and will serve until the next round of elections. Notice of any proposed co-option 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.

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 and do not require to meet the eligibility criteria for other types of membership. Associate members cannot move motions or amendments, nor hold office-bearer positions. 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.

Ex-Officio Members

Local Authority Councillors, MPs and MSPs 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. They cannot take on the role of a community council office-bearer.

Ex-officio members must be invited to all community council meetings, including those meetings which are held in private.

8. Equalities

Recognition should be given to the contribution of everyone participating in the work of the community council. Community councils must comply with public sector equality duties, 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.

9. 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.

Where no leave of absence has been granted and a member has been absent for 3 meetings, the community council should write to the community councillors to establish the reasons for non-attendance and to ask whether the member intends returning to the community council. Any response received must be taken into account by the community council in making any decision about termination of membership.

10. Meetings

The first meeting of a community council following a community council election, will be called by the Returning Officer and will take place within 28 days of the date of the election, or as soon as practicable thereafter. The business of that meeting will include the mandatory adoption of the Model Constitution and Standing Orders, appointment of office bearers and any outstanding business matters from the outgoing community council. In the event of a tied vote for the position of Chair at an inaugural meeting, the decision will be made by drawing of lots. The Chair of the former community council does not have a casting vote.

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.

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.

Meetings of a community council can be conducted by any other method in which each member is able to participate despite not being present in the normal meeting venue. Any community council wishing to hold virtual meetings should put in place appropriate arrangements to allow virtual participation by the public or allow them to submit questions and observe the meeting where virtual participation is not possible. This is subject to agreement by the community council and the availability of equipment to facilitate virtual meetings.

Any community council member who participates virtually in a meeting of their community council will count towards the quorum.

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 Model Constitution and Standing Orders.

11. Liaison with the Local Authority

In order to facilitate the effective functioning of community councils, the local authority has identified an official to act as a Liaison Officer with community councils. Unless there is a specific agreement or an issue is a specific departmental issue, all

correspondence between the local authority and the community councils should, in the first instance, be directed through that official.

Community councils may make representations to the local authority 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 local authority official. On issues where a local authority department is consulting with community councils, representations should be made to the appropriate departmental officer.

Community councils shall provide copies of their agendas and minutes within prescribed timescales to the Council via the local authority's named official.

12. Liaison with the Joint Forum of Community Councils in West Lothian

West Lothian Council recognises the Joint Forum of Community Councils in West Lothian as the representative body for community councils in West Lothian. The JFCCWL is governed by its own constitution.

The JFCCWL shall provide a representative to attend and participate in meetings of the West Lothian Community Planning Partnership and the council's Policy, Development and Scrutiny Panels.

Membership of the JFCCWL is open to every community council in West Lothian. West Lothian Council encourages all community councils to get involved with the Forum which aims to share knowledge and experience on subjects of common interest and to formulate questions for the councils' Policy, Development and Scrutiny Panels (PDSPs).

In the event of the JFCCWL being dissolved, or ceasing to exist, the council and the Community Planning Partnership will work with any properly constituted successor body.

In the event of no such body being formed, the council and the Community Planning Partnership will consider how best community councils can fulfil their statutory purposes of expressing their views to authorities on PDSPs and the CPP.

13. Relationship with the West Lothian Community Planning Partnership

All community councils are members of the West Lothian Community Planning Partnership. Community councils should liaise with the CPP through the named representative of the JFCCWL. Community Councils should inform the JFCCWL of any issues they wish discussed at CPP meetings. Consultation on strategic plans and policies of the CPP should be made available to community councils by the JFCCWL.

14. 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 1st April to 31st March in each succeeding year to allow for the proper submission of audited statement of accounts to the community council's annual general meeting on a specified date.

The Annual Accounts of each community council shall be independently examined by a qualified accountant or by two examiners appointed by the community council, who are not members of that community council and who have no connection with the community council. The examiners do not have to be qualified accountants, simply two people independent of the community council who are capable of auditing simple accounts.

A copy of the independently examined statement of accounts/balance sheet shall be forwarded immediately thereafter the statement is approved at the community council's annual general meeting, to a named official of the local authority.

The named official may, at their discretion and in consultation with the 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.

All expenditure should normally be approved in advance by the community council and such approval recorded in the minutes. In case of urgent need, with the approval of all the office-bearers, expenditure may be authorised in between meetings, but must be confirmed as approved at the next meeting of the community council.

Each community council shall be eligible to apply for grants for suitable projects through the local authority's special project grant scheme.

The local authority will provide an annual grant to community councils to assist with the operating costs of the community council. The level of annual grant shall be as set by West Lothian Council. Community councils set up mid-way through the financial year will receive the remaining proportion of the annual grant. Annual grants for subsequent years shall be paid by the local authority after it has checked the community council's annual accounts, which must have been examined and approved by the community council as provided for in its Constitution and Standing Orders and upon the submission of regular and up to date minutes.

In any financial year, community councils should not donate more than 1/3rd of their annual grant from West Lothian Council. Any donations should only be to local constituted groups which bring community benefit to the area.

The local authority shall determine any additional support services/resourcing, such as: photocopying and distribution of community council minutes, agendas and free lets of halls for community council meetings, to suit local requirements. The local authority will review the level of annual grant and other support to community councils following each local government electoral cycle.

The local authority's Liaison Officer shall facilitate advice and assistance to community councils and arrange for the establishment of a training programme 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. Liability of Community Council Members

A scheme of insurance liability cover has been arranged. The insurance cover becomes effective upon the local authority advising the insurance underwriter of the establishment of a community council.

The liability cover provided by community council insurance policies is linked to the original remit of community councils. However, it can be much wider and can be adapted to suit new activities as and when required. Examples include procuring equipment/buildings and holding community events.

West Lothian Council can provide community councils with advice and support in regards to the insurance requirements of their group needs. However, West Lothian Council cannot instruct changes with the insurers on a community council's behalf. In order to comply with GDPR with regards to personal data and to meet the regulatory requirements of the Financial Conduct Authority, the insurers will only take instruction to alter a policy from the insured party, i.e. the community council. This means that individual community councils have their own policy which can be altered by them in consultation with the insurers to suit the individual needs of their groups activities.

A guidance note on the legal liability of community councillors is provided in the Guidance Notes for Community Councils which supports the scheme. All members are encouraged to ensure they are familiar with the risks involved by being a community council member.

16. Dissolution of a Community Council

The terms for dissolution of a community council are contained within the Model Constitution and Standing Orders.

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 the local authority have taken action to address the situation), the local authority shall take action to dissolve that community council.

17. Commencement Date

The Scheme will come into effect on 31st August 2021.