

SECTION K

DRAFT CONSTITUTION AND CODE OF CONDUCT

DRAFT CONSTITUTION

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SOUTH AYRSHIRE COUNCIL

SCHEME FOR COMMUNITY COUNCILS

MODEL CONSTITUTION FOR COMMUNITY COUNCILS

1. Name

The name of the Community Council shall be the [*insert name*] Community Council (hereinafter referred to as "the Community Council").

2. Area

The boundaries of the Community Council shall be as described in Appendix A of the Scheme for Community Councils (hereinafter referred to as "the Revised Scheme") as adopted by South Ayrshire Council on

3. Objects

In addition to any other purpose which it shall pursue, the objects of the Community Council shall be:

- 3.1 to ascertain, co-ordinate and express to the local authority for the area, and to other public authorities, the views of the community which it represents, in relation to matters for which those authorities are responsible;
- 3.2 to take such action in the interests of the community as appears to it to be expedient and practicable;
- 3.3 to liaise with other community and voluntary organisations within the area, to express fairly the diversity of opinions and outlooks of the people in accordance with the Equality Duty in the Equality Act 2010.

4. Membership

- 4.1 The Community Council will have a membership as defined in the Scheme and shall consist of [*insert number*] elected Members with, in addition, *ex officio* Members and such Members as may be co-opted in terms of the Scheme.
- 4.2 Membership shall be open to all registered electors for Local Government Elections in the area of the Community Council as defined by the Scheme and the Community Council must comply with the Equality Duty to:
 - eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act;

- advance equality of opportunity between people who share a protected characteristic and people who do not share it; and
- foster good relations between people who share a protected characteristic and people who do not share it.

5. Equality and Diversity

5.1 The Community Council will comply with the requirements of the Human Rights Act 1998 and the Equality Act 2010. The Equality Act 2010 protects people from discrimination, harassment and victimisation on the basis of 'protected characteristics'.

The protected characteristics are:

- 5.1.1 Age
- 5.1.2 Disability
- 5.1.3 Gender reassignment
- 5.1.4 Marriage and civil partnership
- 5.1.5 Pregnancy and maternity
- 5.1.6 Race
- 5.1.7 Religion and belief (including non-belief)
- 5.1.8 Sex
- 5.1.9 Sexual orientation

5.2 The Community Council will act and represent people from all protected characteristics within its communities with dignity and respect, and in a fair and equal manner.

5.3 The Community Council will not discriminate against, harass or victimise an existing or potential member or a Co-optee.

5.4 The Community Council will not refuse membership, or grant membership on less favourable terms (such as by applying different conditions) because the person has a protected characteristic as shown above.

5.5 The Community Council shall also support South Ayrshire Council in meeting its other general equality duties of advancing equality of opportunity and fostering good relations by:

- 5.5.1 highlighting the needs of particular groups that are different from the needs of others in the community and
- 5.5.2 encouraging participation in public life.

6. Elections

6.1 Method of Election – Elections shall be by the method of election defined in Section B of the Scheme. The Returning Officer for all Community Council elections shall be the Service Planning and Election Manager of South Ayrshire Council.

6.2 Qualifications of Candidates and Electors – Candidates and Electors in all Community Council elections shall fulfil the requirements specified in Section B of the Scheme.

7. Co-option and Nomination to the Community Council

7.1 There will be two different categories of Co-optee –

7.1.1 those filling a casual vacancy till the next ordinary election or by-election will be **temporary co-optee**, and,

7.1.2 those co-opted for their specific expertise, for a specific length of time, will be a **specialist** co-optee.

7.2 There will be different methods of recruitment and qualification which apply to each type of co-optee:

7.2.1 **Temporary** co-optees must be resident within the boundary of the Community Council, or Sub Area, and must be recruited by advertisement in specified locations, as detailed in Section F of the Scheme, and serve only up to the next election or by-election. In any event they may not serve as a temporary co-optee for longer than eleven months.

7.2.2 **Specialist** co-optees do not necessarily have to be resident in the area, but must be recruited for a specific project for a specified length of time. The Community Council will publicise the recruitment of specialist co-options to residents within its area, stating the reasons and duration of the co-option as detailed in Section F of the Scheme.

8. Voting Rights of Members of the Council

The right to vote at any meeting of the Community Council or any Sub-Committee shall be held by the Members of the Community Council, notwithstanding those who have made a Declaration of Interest, *ex officio* members and temporary Co-optees.

9. Election of Office-Bearers

9.1 At the first meeting of the Community Council after Elections in the year when Elections are held and at the Annual General Meeting in the year when Elections are not held, the Community Council shall appoint a Chair, Vice-Chair, Secretary and Treasurer.

9.2 All office-bearers shall be elected for one year, but shall be eligible for re-election, without limit of time.

9.3 Members of the Community Council appointed as Secretary and Treasurer, or as Secretary or as Treasurer individually, shall not be entitled to remuneration, but the Community Council may, within the Scheme, award honorariums to such Members.

10. Appointment of Planning Contact and Licensing Contact

At the first meeting of the Community Council after Elections in the year when Elections are held and at the Annual General Meeting in the year when Elections are not held, the Community Council may appoint a Planning Contact and a Licensing Contact.

11. Sub-Committees

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

12. Meetings of the Community Council

12.1 In the month of May each year the Community Council shall convene an Annual General Meeting which may be attended by residents of the area for the purpose of receiving and considering the annual report of the Community Council and the annual audited Statement of Accounts.

12.2 The Community Council shall meet throughout the year a minimum of six times at intervals not exceeding three months for Ordinary Meetings.

12.3 Dates of regular meetings of the Community Council shall be fixed at the first meeting of the Council following ordinary elections.

12.4 The Community Council may from time to time convene Special General Meetings for the purpose of considering matters of interest or importance. These may, at the Community Council's discretion, take the form of Public Meetings. No more than four such meetings may be held between Annual General Meetings.

12.5 Copies of all Minutes of Meetings of the Community Council and of its Sub-Committees shall be approved at the next following meeting of the Community Council and shall be available for inspection by members of the public at a suitable place or places within fourteen days of the meeting of the Community Council at which such Minutes are approved. Minutes should also be made available in alternative formats upon request including draft minutes and the note of action points. Minutes of all meetings shall be sent to South Ayrshire Council following approval.

12.6 Notwithstanding the above, draft minutes or a note of action points of meetings should be prepared and circulated to Community Councillors and those attending the meeting seven days at least before the next meeting to ensure that any immediate action points are addressed.

13. Public Participation in the Work of the Community Council

13.1 The Community Council may invite a member of the public or the representative of an organisation to address any meeting of the Community Council or its Sub-Committees.

13.2 All meetings of the Community Council and of its Sub-Committees shall be open to members of the public except that the Community Council or Sub-Committee, as appropriate, may by resolution agree to consider in private any items of business of a confidential nature, as defined in the Local Government (Access to Information) Act 1985. Proper provision is to be made for the accommodation of members of the public.

13.3 Notices calling meetings of the Community Council and of its Sub-Committees shall be posted prominently within the Community Council area for a minimum period of seven days before the date of any such meeting, and by other suitable means.

14. Exchange of Information with South Ayrshire Council

14.1 South Ayrshire Council shall nominate an Officer or Officers to act as the principal point(s) of contact for matters relating to the Community Council.

14.2 South Ayrshire Council and the Community Council shall establish mutually satisfactory arrangements regarding exchange of ideas and information through the development of a Code of Conduct, which shall include:-

14.2.1 provision for the supply of information by South Ayrshire Council to the Community Council on proposals and decisions which may affect the area concerned in order that the views of the community may be ascertained, and

14.2.2 clarification on the roles and responsibilities, on matters concerning Community Council business, of South Ayrshire Elected Members, South Ayrshire Council Officers and Community Councillors as elected in terms of Section B of the Scheme.

14.3 *Exchange of Minutes and Reports*

14.3.1 South Ayrshire Council shall inform the Community Council that a copy of the Minutes of meetings of South Ayrshire Council and its Committees together with, where appropriate, copies of the agendas for such meetings and reports considered at such meetings may be obtained from its website.

14.3.2 The Community Council shall forward copies of Minutes of Meetings and Sub-Committees, together with, where appropriate, copies of reports considered by them, to South Ayrshire Council once they have been formally approved.

14.3.3 South Ayrshire Council shall inform the Community Council where its Annual Report may be obtained.

14.3.4 The Community Council shall prepare an Annual Report for presentation to its Annual General Meetings, and thereafter for submission to South Ayrshire Council.

15. Control of Finance

15.1 All monies raised by or on behalf of the Community Council or provided by South Ayrshire Council and other sources shall be applied to further the objects of the Community Council and for no other purpose. The monies provided by South Ayrshire Council in the Administration Grant shall be used only for administrative and other purposes as indicated in Section E of the Scheme. Monies raised by the Community Council from other sources may be used in accordance with the terms of the provision, or, in the absence of such terms, for the furtherance of the objects of the Community Council.

15.2 The Treasurer shall keep proper accounts of the finances of the Community Council.

15.3 The financial year of the Community Council shall be from 1 April to 31 March of the succeeding year. The accounts shall be submitted to South Ayrshire Council at the end of each financial year and shall be audited or independently by a professional auditor approved by South Ayrshire Council.

15.4 An audited Statement of Accounts for the last financial year shall be submitted to an Annual General Meeting of the Community Council and shall be available for inspection at a convenient location.

16 Data Protection

The Community Council will comply with the provisions of the Data Protection Act 1998.

17. Alterations to the Constitution

Any proposal to alter this Constitution must be delivered in writing to the Secretary of the Community Council not less than twenty eight days prior to the date of the meeting at which it is first to be considered and the terms of the proposed resolution to alter the Constitution shall be stated on the notice calling the meeting which shall be issued not less than fourteen days prior to the meeting. Should an individual require assistance in providing a written proposal, the Community Council is obliged to provide support to the individual to accomplish this. All proposed or actual alterations will require to conform to the Scheme. If the resolution is supported by two-thirds of the elected membership of the Community Council and is approved, in writing, by South Ayrshire Council or its appointed officer, the alteration shall be deemed to have been duly authorised from the date of the letter or such other date as may be agreed.

18. Dissolution

The Community Council will be dissolved if it has

- 18.1 failed to hold any meetings, or such meetings have been inquorate, for a period of six months, or longer or
- 18.2 failed to submit to South Ayrshire Council, in terms of the Scheme, minutes of its meetings for a period of at least twelve months
- 18.3 insufficient number of Members in terms of the Scheme.

The Council will co-operate with South Ayrshire Council in terms of Section E3 of the Scheme.

19. Adoption and Ratification of the Constitution

This Constitution was adopted by [*insert name*] Community Council on [*insert date*].

Signed: Chairperson

Member

Member

Date

and was ratified on behalf of South Ayrshire Council on

Signed:

Date:



COMMUNITY COUNCILLORS

CODE OF CONDUCT

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- 2 - Public Duty and Private Interest
- 3 - Disclosure of pecuniary and other Interests
- 4 - Dispensations
- 5 - Disclosure in other Dealings
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- 7 - Use of confidential and private information
2004
- 8 - Gifts and Hospitality
- 9 - Expenses and Allowances
- 10 - Dealings with the Community Council
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- 12 - Appointments to other Bodies
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1. THE LAW AND STANDING ORDERS

Community Councillors hold office by virtue of the law, and must at all times act within the law. You should make sure that you are familiar with the rules of personal conduct which the law and your Community Council's Constitution require, and the guidance contained in this Code. It is your responsibility to make sure that what you do complies with these requirements and this guidance. You should regularly review your personal circumstances with this in mind, particularly when your circumstances change. You should not at any time advocate or encourage anything to the contrary. If you are in any doubt, seek advice from the Head of Policy, Community Planning and Public Affairs of South Ayrshire Council or another of the Council's senior officers or from your own legal adviser. Ultimately, however, the decision and the responsibility are yours.

2. PUBLIC DUTY AND PRIVATE INTEREST

- 2.1 Your over-riding duty as a Community Councillor is to the whole local community served by the Community Council of which you are a member, including those who did not vote for you.
- 2.2 If you have a private or personal interest in a question which Community Councillors have to decide, you should never take any part in the decision, except in the special circumstances described below. Where such circumstances do permit you to participate, you should never let your interest influence the decision.
- 2.3 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 the reputation of your Community Council.
- 2.4 It is not enough to avoid actual impropriety. You should at all times avoid any occasion for suspicion and any appearance of improper conduct.
- 2.5 You should be clear at all times on your role when attending Community Council meetings. You can employ your skills and experience for the benefit of the Community Council but you should not act in your professional or interest role (e.g. as architect, journalist, licensee) as well as act in the role of Community Councillor.

3. DISCLOSURE OF PECUNIARY AND OTHER INTERESTS

- 3.1 Whilst the law does not make specific provision requiring you, as a Community Councillor, to disclose both direct and indirect pecuniary interests (including those of a partner with whom you are living) which you may have in any matter coming before the Community Council, a Committee or a Sub-Committee, nor prohibit you from speaking or voting on that matter, you should behave as if the law applying to South Ayrshire Councillors applies to you. These requirements must be scrupulously observed at all times.
- 3.2 Interests which are not pecuniary can be just as important. You should not allow the impression to be created that you are, or may be, using your position to promote a private or personal interest, rather than forwarding the general public interest. Private and personal interests include those of your family, friends and employer, as well as those arising through membership of, or association with, clubs, societies, and other organisations such as the Freemasons, trade unions, political parties, religious groups and voluntary bodies.

- 3.3 If you have a private or personal non-pecuniary interest in a matter arising at a Community Council meeting, you should always disclose it, unless it is one which you share with other members of the public generally as a ratepayer or a council tax payer or an inhabitant of the area.
- 3.4 Where you have declared such a private or personal interest, you should decide whether it is clear and substantial (see 3.5 below). If it is not, then you may continue to take part in the discussion of the matter and may vote on it. If, however, it is a clear and substantial interest, then (except in the special circumstances described in 3.6 below) you should never take any further part in the proceedings, and should always withdraw from the meeting whilst the matter is being considered.
- 3.5 In deciding whether such an interest is clear and substantial, you should ask yourself whether members of the public, knowing the facts of the situation, would reasonably think that you might be influenced by it. If you think so, you should regard the interest as clear and substantial.
- 3.6 In the following circumstances, but only in these circumstances, it can 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:
- 3.6.1 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 pecuniary interests, membership of the body would not constitute an indirect pecuniary interest;
- 3.6.2 if your interest arises from being appointed by your Community Council 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;
- 3.6.3 if your interest arises from being a member of the managing committee, or other governing body of such an organisation, but you were not appointed by your Community Council 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;
- 3.6.4 if your interest arises 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.

4. DISPENSATIONS

- 4.1 Circumstances may arise where the work of your Community Council is affected because some Community Councillors have personal interests (pecuniary or non-pecuniary) in some question.

- 4.2 In the case of non-pecuniary interests, there may be exceptions to the guidance contained in paragraphs 3.2 to 3.6 of this Code. In the circumstances below it may be open to you to decide that the work of the Community Council requires you to continue to take part in a meeting which is discussing a matter in which you have a clear and substantial private or personal interest.
- 4.3 Before doing so, you should:
- 4.3.1 take advice from the chairperson of your Community Council (if this is practicable) or from the appropriate senior officers of South Ayrshire Council as to whether the situation justifies such a step;
 - 4.3.2 consider whether the public would regard your interest as so closely connected with the matter in question that you could not be expected to put your interest out of your mind (for example, the matter might concern a decision by the Community Council affecting a close relative); if you think that they would, you should never decide to take part in a discussion of, or a vote on, the matter in question; and
 - 4.3.3 consider any guidance which your Community Council has issued on this matter.
- 4.4 The circumstances in which (after such consultation and consideration) you may decide to speak and vote on a matter in which you have a clear and substantial private or personal non-pecuniary interest are if, but only if, at least half the Community Council would otherwise be required to withdraw from consideration of the business because they have a personal interest.
- 4.5 If you decide that you should speak or vote, notwithstanding a clear and substantial personal or private non-pecuniary interest, you should say at the meeting, before the matter is considered, that you have taken such a decision, and why.
- 4.6 The guidance set out in paragraphs 4.2 to 4.5 above also applies to Committees and Sub-Committees.

5. DISCLOSURE IN OTHER DEALINGS

- 5.1 You should always apply the principles about the disclosure of interests to your dealings with Community Council matters to your unofficial relations with other Community Councillors at, for example, informal occasions, no less scrupulously than at formal meetings of the Community Council, Committees and Sub-Committees.
- 5.2 You, or some firm or body with which you are personally connected, may have professional business or personal interests within the area for which the Community Council is responsible. Such interests may be substantial and closely related to work of the Community Council or of one or more of the Community Council's Committees or Sub-Committees. For example, the firm or body may be concerned with planning, developing land, council housing, personnel matters or the letting of contracts for supplies, services or works. You should not seek, or accept, membership of the Community Council or any such Committee or Sub-Committee if that would involve you in disclosing an interest so often that you could be of little value to the Council, Committee or Sub-Committee, or if it would be likely to weaken public confidence in the duty of the Community Council, Committee or Sub-Committee to work solely in the general public interest.

6. CHAIR

- 6.1 You should not seek or accept the Chair of the Community Council if you or any body with which you are associated, has a substantial financial interest in, or is closely related to, the business or affairs of the Council. Likewise you should not accept the Chair of a Committee or Sub-Committee if you have a similar interest in the business of the Committee or Sub-Committee.

7. USE OF CONFIDENTIAL AND PRIVATE INFORMATION

- 7.1 As a Community Councillor or a Committee or Sub-Committee member, you may acquire much 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 the discredit of the Community Council or any else.

8. GIFTS AND HOSPITALITY

- 8.1 You should treat with extreme caution any offer or gift, favour or hospitality that is made to you personally. The person or organisation make the offer may be doing, or seeking to do, business with the Community Council, or may be applying to the Community Council for some kind of decision or recommendation.
- 8.2 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 Community Council beforehand and that no extravagance is involved. Likewise, it may be reasonable for a member to represent the Community Council at a social function or event organised by outside persons or bodies.
- 8.3 You are personally responsible for all decisions connected with the acceptance or offer of gifts or hospitality and for avoiding the risk of damage to public confidence in Community Councils. The offer or receipt of gifts or invitations should always be reported to the Secretary of the Community Council.

9. EXPENSES AND ALLOWANCES

- 9.1 There may be rules enabling you to claim expenses and allowances in connection with your duties as a Community Councillor or a Committee or Sub-Committee member, and these rules must be scrupulously observed.

10. DEALINGS WITH THE COMMUNITY COUNCIL

- 10.1 You may have dealings with the Community Council on a personal level (for example as an applicant for planning permission). You should never seek or accept preferential treatment in those dealings because of your position as a Community Councillor or a Committee or Sub-Committee member. You should also avoid placing yourself in a position that could lead the public to think that you are receiving preferential treatment. Likewise, you should never use your position as a Community Councillor or a Committee or Sub-Committee member to seek preferential treatment for friends or relatives, or any firm or body with which you are personally connected.

11. USE OF COMMUNITY COUNCIL FACILITIES

You should always make sure that any facilities (such as transport, stationery, or secretarial services) provided by the Community Council for use in your duties as a Community Councillor or a Committee or Sub-Committee member are used strictly for those duties and for no other purpose.

12. APPOINTMENTS TO OTHER BODIES

You may be appointed or nominated by your Community Council as a member of another body or organisation – for instance, to voluntary organisation. You should always observe this Code in carrying out your duties on that body in the same way you would with the Community Council.

13. AUTHORITY OF CODE

This code has been issued by South Ayrshire Council to describe the standard of behaviour expected from individual Community Councillors. It is expected that all Community Council Members will adhere to its terms. If a Member of a Community Council does not or cannot adhere to the terms of the Code, it would be expected that the Member would leave the Council. If the Member refuses to leave then the Community Council may cease to be recognised by South Ayrshire Council.

14. EXPULSIONS

Each duly elected Member of a Community Council, shall agree in writing to abide by the Constitution of his/her Community Council. Each Community Council will lay down a Code of Conduct and procedure within their Constitution. Any Member of a Community Council who repeatedly flouts or ignores the rules as laid down in the Code of Conduct, will be subject to disciplinary action by their Community Council. If the conduct of a Community Councillor is deemed to amount to "gross misconduct", in terms of the Code of Conduct, then he or she may be duly expelled by their Community Council. Where a dispute arises between an individual Member and his/her Community Council over the interpretation of the Constitution of that Community Council, then the Head of Policy, Community Planning and Public Affairs, South Ayrshire Council, or his/her representative may be invited by the individual member, or the Community Council to act as arbiter, in which event the decision by the Head of Policy, Community Planning and Public Affairs shall be final and binding.