

Report

Report to:	South Lanarkshire Council
Date of Meeting:	23 September 2020
Report by:	Executive Director (Finance and Corporate Resources)

Subject:	Review of the South Lanarkshire Scheme for Establishment of Community Councils
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1. Purpose of Report

1.1. The purpose of the report is to: -

- ♦ Propose that the Council carry out a Review of the South Lanarkshire Scheme for the Establishment of Community Councils.

2. Recommendation(s)

2.1. The Council is asked to approve the following recommendation(s): -

- (1) that the terms of Clause 11 of the existing South Lanarkshire Scheme for the Establishment of Community Councils attached at Appendix 1 of the Report, which currently does not permit Community Councils to hold formal meetings other than in public, be noted.
- (2) that a review of the current Scheme for the Establishment of Community Councils be undertaken, outlining the proposed key amendments to Clause 11 detailed in Appendix 2.
- (3) that a formal consultation exercise be carried out with all stakeholders; and
- (4) that the process and timeline for a Review of the Scheme as detailed at Section 7 and Appendix 3, be noted.

3. Background

- 3.1. The last full Review of the South Lanarkshire Scheme for the Establishment of Community Councils within South Lanarkshire concluded in 2014 and the Scheme was updated and published. The Scheme was updated to take account of legislative changes in 2018.
- 3.2. The current Scheme reflects the terms of the Model Scheme recommended by the Scottish Government however that too has also been in place for some years. The Coronavirus pandemic has highlighted that there are issues with the Scheme which resulted in Community Councils not being able to continue to hold meetings and actively function using modern technology since Coronavirus restrictions were put into place in March 2020.
- 3.3. Community Councils sought advice from the Council on how to hold meetings which followed the legislation, government guidance and the South Lanarkshire Scheme for the Establishment of Community Councils and Officers provided a work around which is explained in more detail in section 5 below.

4. The Issues

- 4.1. The powers of Community Councils to hold meetings are set down in the South Lanarkshire Council's Scheme of Establishment of Community Councils. They cannot do anything which they are not specifically enabled to do in terms of the Scheme.
- 4.2. The Scheme and in particular Clause 11 (as set out in Appendix 1) requires that all meetings of a Community Council must be held in public and that its members and members of the public must be physically present. Community Councils, unlike Local Authorities who are allowed by statute to hold online meetings attended by members or hybrid meetings attended either in person or online, have not been provided with the powers in terms of the Scheme, to meet in any other way such as by using online facilities to hold meetings.
- 4.3. The Coronavirus (Health Protection) (Scotland) Regulations currently impose restrictions on gatherings. There is currently no exception within that legislation which would permit Community Councils to hold public meetings requiring the physical attendance of their members and members of the public.
- 4.4. The creation of powers for Community Councils to hold meetings online will require an amendment to the Scheme. This could only take place after a review of the Scheme, which must follow the statutory process set down in section 53 of the Local Government (Scotland) Act 1973 as amended and outlined in section 7 below. A decision to initiate a review of the Scheme and subsequently to adopt any amendments requires to be taken at a meeting of the full Council and requires two thirds of the members present and voting to agree.

5. The Advice provided to Community Councils to date

- 5.1. The model constitution adopted under the Scheme allows for urgent decisions to be made by office bearers where the decision cannot wait until the next validly constituted meeting of the Community Council. Therefore, if the Community Council has adopted the model constitution, the advice of the Council will be that these powers should be used to make decisions.
- 5.2. Office bearers can consult with members of the Community Council, including elected representatives appointed through the Scheme before making any decisions. There is nothing to prevent them from doing so in terms of the Scheme.
- 5.3. Community Councils were advised that they should use the powers delegated to their office bearers together with a consultation process. Internal consultation of other members of the Community Council can be done individually or as a group using telephone, telephone conferencing or online apps, However, it has been stressed that:
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 - it is the decision of the office bearers concerned whether and how to undertake such consultation
 - it is the office bearers that are making the decision, not the Community Council
 - if there is a consultation, the Office bearers are to consult with all members (though not necessarily at the same time) and
 - despite the consultation process, all decisions made through that process must be reported to the first validly constituted meeting of the Community Council.

5.4. In order to maintain a consistent approach for all Community Councils, a list of Frequently Asked Questions and Answers was issued to all Community Councils through the normal communication channels asking that all Community Councils bring it to the attention of their members.

5.5. Community Councils have on the whole been following the advice provided but would prefer to also have the ability to hold a formal meeting online to allow all community council members, local elected members, press and public to participate.

6. Proposed revisals to the Scheme

6.1. There are two issues that must be dealt with to resolve the effect of the current Scheme in situations such as the current pandemic and allow Community Councils to continue to make decisions involving all members where they and members of the public cannot physically attend physical at meetings. These are: -

- allowing all or some of the members of the Community Council, press and public to attend a meeting using remote access and
- suspending the requirement for the public to be able to physically attend any meetings

6.2. The proposed amendments to the wording of Clause 11 of the current Scheme set out in Appendix 2 would resolve these issues.

7. Review of Scheme Process

7.1. As explained in paragraph 4.4 above, Section 53 of the Local Government (Scotland) Act provides the process to be followed for a formal review of the Scheme. If the Council agrees by a majority of two thirds of members attending the meeting to carry out a formal review of the Scheme, it is required by the legislation to publicise the proposals and undertake public consultations on the proposed amendments for a period of 8 weeks.

7.2. At the end of this period a further report on the outcome of the consultation will be presented to another specially convened meeting of the Council. The earliest that this could be convened would be December 2020. At this meeting each proposed amendment must be considered, and a decision taken to accept or reject it. If there are no amendments to the proposed revised Scheme, then provided that two thirds of the Councillors present vote in favour, the proposed Scheme would be adopted.

7.3. However, if there are amendments to the Scheme then a further period of consultation on those amendments is required. Once again, it is proposed that the consultation period be 8 weeks. The outcome of this consultation will again be reported to Council to allow Council to consider any representations and proposed amendments to the Scheme and to agree a final draft amended scheme which again must be subject to a 4-week public consultation period and the same approval/rejection process undertaken in respect of any changes to the proposed revised Scheme. At the end of any period for consultation period, there are no further changes proposed to the proposed revised scheme, and the amendments are still wanted, Council will be asked to approve the final amendments to the Scheme.

7.4. The process is outlined in Appendix 3.

8. Community Council Engagement

- 8.1. Engagement has been taking place with Community Councils through the Community Engagement Team about the Review of the Scheme.

9. Employee Implications

- 9.1. There are no employee implications in terms of the content of this report.

10. Financial Implications

- 10.1. None.

11. Climate Change, Sustainability and Environmental Implications

- 11.1. There are no implications for climate change, sustainability or the environment in terms of the information contained in this report.

12. Other Implications

- 12.1. There are no risk implications

13. Equality Impact Assessment and Consultation Arrangements

- 13.1. This report does not introduce a new policy, function or strategy, or recommend a change to an existing policy, function or strategy and, therefore, no impact assessment is required.
- 13.2. Full public consultation will be required as part of the Review process of the Scheme.

Paul Manning

Executive Director (Finance and Corporate Resources)

24 August 2020

Link(s) to Council Values/Ambitions/Objectives

- Accountable, effective, efficient and transparent
- Fair, open and sustainable

Previous References

South Lanarkshire Council of September 2013, December 2013 and June 2014

List of Background Papers

South Lanarkshire Scheme for the Establishment of Community Councils

Contact for Further Information

If you would like to inspect the background papers or want further information, please contact: -

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Appendix 1

Extract from Scheme for the Constitution of Community Councils

11. Meetings

- a) The first meeting of a Community Council following a Community Council election, will be called by an Independent Interim Chairperson approved by the outgoing Community Council and will take place within 21 days of the date of the election, or as soon as practicable thereafter.

The business of that meeting will include adoption of a Constitution and Standing Orders and Code of Conduct, appointment of office bearers, Chairperson's and Treasurer's reports and any outstanding business matters from the outgoing Community Council.

- b) The frequency of meetings will be determined by each Community Council, subject to a minimum of one Annual General Meeting and 4 ordinary meetings being held each year. The Annual General Meeting shall be held in a month of each year to be determined by the Council.
- c) The quorum for Community Council meetings to be 1/4 of the current voting membership of a Community Council, or 4 voting members, whichever is the greater.
- d) 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 Standing Orders.
- e) All Community Council meetings, including Sub Committee meetings, to be held in public and open to the public and press **without exception**. There is no provision for any of the Community Councils or its Sub Committees' meetings to be held in private.
- f) No Community Council, or any of its members, may take steps to or shall do anything that would deter, discourage or obstruct a Community Councillor or a member of the public (including the press) from attending a meeting or, if entitled to participate in the meeting, from doing so.

No Community Council will be able to or require a Community Councillor or a member of the public (including the press) to leave a meeting of the Community Council, unless the Chairperson of the meeting has good cause to be satisfied that that Community Councillor or member of the public is behaving in a way that is disorderly or disruptive to the conducting of business of the meeting. Provisions regarding the exercise of this power to eject a Community Councillor or member of the public to leave a meeting shall be contained in the Core Standing Orders.

- g) Officers of the Council shall have the right to attend any meetings of Community Councils.

Appendix 2

In the existing Clause 11

Amendment 1

Replace the existing sub clause e) with the following

- “e) Unless permitted in terms of this sub-clause, all Community Council meetings, including Sub-Committee meetings, are to be held in public and open to the physical attendance of public and press. However, if it is in the public interest not related to the business of the Community Council to meetings.”

Amendment 2

Insert

- “h) Whilst it is expected that meetings of a Community Council and its committees are conducted with all members being present together in a pre-determined place as set out above, it will be competent for a Community Council to conduct its meetings in any other way in which each member is enabled to participate although not present with others in such a place subject to the following:-
- (1) such a meeting shall be conducted, however, only on the direction of the Chairperson, whom failing, the Depute Chairperson, of that Community Council, and
 - (2) the references in sub paragraphs a) to g) above or elsewhere within this Scheme to the presence of members were references to their participation in that meeting.”

Appendix 3

PROCESS FOR AMENDMENT TO SCHEME OF COMMUNITY COUNCILS

