

# COMHAIRLE NAN EILEAN SIAR SCHEME FOR THE ESTABLISHMENT OF COMMUNITY COUNCILS IN NA H'EILEANAN AN IAR

## 1 INTRODUCTION

- 1.1 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.
- 1.2 Community Councils have a statutory right to be consulted on applications for planning permission and have a key role as per the Planning (Scotland) Act 2019 in engaging with the statutory planning system.
- 1.3 The Comhairle is required to publish a Scheme of Establishment for Community Councils setting out the provisions for the formation and operation of Community Councils in the area. The Scheme will be subject to review in each term.

## 2 STATUTORY PURPOSES

- 2.1 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 ESTABLISHMENT OF COMMUNITY COUNCILS UNDER THE SCHEME

- 3.1 Upon the Comhairle’s revocation of the existing Scheme and decision 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.
- 3.2 Thereafter, a consultation process on the proposed Scheme shall be undertaken prior to its formal adoption by Comhairle. The Scheme may be amended at any time following approval by Comhairle.
- 3.3 If for any reason there is no established Community Council in an area following elections, twenty local electors who must be on the electoral register for the area concerned, may make a request by way of petition to the Comhairle for an election to be held. Any members elected in this way will only hold office until the end of term for the next scheduled election, in accordance with election procedures.

## **4 ROLES AND RESPONSIBILITIES**

4.1 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 the Comhairle, other public sector bodies and private agencies on matters within their sphere of interest.

4.2 It is essential these views are demonstrated to be accurately representative of the community or communities the Community Council represents. Accordingly, the Community Council must have in place, with reference to the national standards of community engagement, recognised consultative mechanisms to validate their views and devise strategies to secure greater involvement by all sectors of the community whom they represent.

### **4.3 ROLE**

4.3.1 Community Councils have a statutory right to be consulted on planning and licensing applications.

4.3.2 Community Councils are a community participation body under the Community Empowerment Act 2015 and may make requests in relation to this provision.

4.3.3 There should be mutual engagement in the establishment of working relations with the Comhairle and other agencies.

4.3.4 Community Councils may be consulted on any other matters by the Comhairle, and any other public sector and private agencies.

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

4.3.6 In carrying out their activities Community Councils must at all times adhere to the law, the terms of the Scheme and the Community Council members' Code of Conduct (Appendix 3);

4.3.7 Each Community Council is required to adopt a Constitution based upon the Model Constitution (Appendix 1) together with Standing Orders (Appendix 2) 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 the Comhairle and shall not come into force until approved. The Comhairle cannot approve a constitution that is in conflict with the scheme. A new constitution must be approved at the start of each term of office following election, even if no amendments have been made.

### **4.4 RESPONSIBILITIES**

4.4.1 Community Councils have a duty under statute to represent the views of their local community. It is vital therefore they reflect the broad spectrum of opinion and interests of all sections of the community.

4.4.2 In order to fulfil their responsibilities and in being effective and representative, Community Councils shall:

- a) Provide public contact details of the Community Council and how it may be contacted by the public.
- b) 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 and noticeboards, online and social media, and 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.
- c) Agendas and draft minutes of Community Council's meetings must be presented to the local authority within 30 days from the date of that meeting and be circulated to Community Council members, relevant elected members, and other interest parties.
- d) Seek to broaden both representation and expertise by promoting the Associate Membership of the Community Council of persons for specific projects/issues.
- e) 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.
- f) Maintain proper financial records and present financial reports at Community Council meetings.
- g) Inform the Comhairle of any change in membership (Resignations, Co-opted Members, Associate Membership, etc) and circumstances, as soon as is practicable.

## **6 COMMUNITY COUNCIL AREAS**

6.1 In the event that a community served by a Community Council for one of the areas in paragraph 6.2 below applies to the Comhairle to be recognised as a separate area and to establish a Community Council to serve the new area, the Chief Executive shall arrange for the matter to be considered by the Comhairle as soon as practicably possible. The report to the Comhairle shall set out the proposed area of the new Community Council and the arrangements to consult both within the community concerned and the Community Council in whose area the community lies.

6.2 The areas referred to in paragraph 6.1 above comprise: -

- |     |                 |   |
|-----|-----------------|---|
| (1) | Ness            | That part of the ward of An Taobh Siar agus Nis shown on Map 1 (Appendix 4) |
| (2) | Airidhantuim    | That part of the ward of An Taobh Siar agus Nis shown on Map 1 (Appendix 4) |
| (3) | Barvas and Brue | That part of the ward of An Taobh Siar agus Nis shown on Map 1 (Appendix 4) |
| (4) | Shawbost        | That part of the ward of An Taobh Siar agus Nis shown on Map 1 (Appendix 4) |

- |      |              |  |
|------|--------------|--|
| (5)  | Carloway     | That part of the ward of Sgìre 'Uige agus Carlabhagh shown on Map 1 (Appendix 4)                   |
| (6)  | Breascleite  | That part of the ward of Sgìre 'Uige agus Carlabhagh shown on Map 1 (Appendix 4)                   |
| (7)  | Benera       | That part of the ward of Sgìre 'Uige agus Carlabhagh shown on Map 1 (Appendix 4)                   |
| (8)  | Uig          | That part of the ward of Sgìre 'Uige Carlabhagh shown on Map 1 (Appendix 4)                        |
| (9)  | Back         | The part of the ward of Loch a Tuath shown on Map 1 (Appendix 4)                                   |
| (10) | Tong         | The part of the ward of Loch a Tuath shown on Map 1 (Appendix 4)                                   |
| (11) | North Tolsta | The part of the ward of Loch a Tuath shown on Map 1 (Appendix 4)                                   |
| (12) | Laxdale      | That part of the ward of Steòrnabhagh a Tuath shown on Map 1 (Appendix 4)                          |
| (13) | Stornoway    | That part of the wards of Steòrnabhagh a Deas and Steòrnabhagh a Tuath shown on Map 1 (Appendix 4) |
| (14) | Sandwick     | That part of the ward of Steòrnabhagh a Deas shown on Map 1 (Appendix 4)                           |
| (15) | Point        | That part of the ward of Sgìre an Rubha shown on Map 1 (Appendix 4)                                |
| (16) | North Lochs  | That part of the ward of Sgìre nan Loch shown on Map 1 (Appendix 4)                                |
| (17) | Pairc        | That part of the ward of Sgìre nan Loch shown on Map 1 (Appendix 4)                                |
| (18) | Kinloch      | That part of the ward of Sgìre nan Loch shown on Map 1 (Appendix 4)                                |
| (19) | North Harris | That part of the ward of Na Hearadh shown on Map 1 (Appendix 4)                                    |

(20)	Scalpay	That part of the ward of Na Hearadh shown on Map 1 (Appendix 4)
(21)	South Harris	That part of the ward of Na Hearadh shown on Map 1 (Appendix 4)
(22)	Berneray	That part of the ward of Uibhist a Tuath shown on Map 2 (Appendix 5)
(23)	North Uist	That part of the ward of Uibhist a Tuath shown on Map 2 (Appendix 5)
(24)	Benbecula	That part of ward of Uibhist a Deas, Eirisgeidh agus Beinn na Faoghla shown on Map 2 (Appendix 5)
(25)	lochdar	That part of the ward of Uibhist a Deas, Eirisgeidh agus Beinn na Faoghla shown on Map 2 (Appendix 5)
(26)	Bornish	That part of the ward of Uibhist a Deas, Eirisgeidh agus Beinn na Faoghla shown on Map 2 (Appendix 5)
(27)	Lochboisdale	That part of the ward of Uibhist a Deas, Eirisgeidh agus Beinn na Faoghla shown on Map 2 (Appendix 5)
(28)	Eriskay	That part of the ward of Uibhist a Deas, Eirisgeidh agus Beinn na Faoghla shown on Map 2 (Appendix 5)
(29)	Northbay	That part of the ward of Barraigh agus Bhatersaigh shown on Map 2 (Appendix 5)
(30)	Castlebay	That part of the ward of Barraigh agus Bhatersaigh shown on Map 2 (Appendix 5)

In the event of dispute or question, precise boundaries shall be determined by the Chief Executive in consultation with the relevant local elected members of the Comhairle.

## **7 MEMBERSHIP**

- 7.1 There shall be a minimum of six and a maximum of twelve persons elected to a Community Council.
- 7.2 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.
- 7.3 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.
- 7.4 There shall be provision made for non-voting Associate Membership for purposes as defined by each Community Council. Such persons will not be counted in terms of meeting a quorum, or towards the total number of Community Council members.

7.5 Elected members of the Comhairle and members of the Scottish and United Kingdom Parliaments are entitled to become *ex-officio* members of Community Councils, with no voting rights.

## **8 NOMINATIONS AND ELECTIONS**

8.1 The Returning Officer, being the Returning Officer appointed by the Comhairle, or their nominee, will be responsible for elections under this Scheme.

8.2 The first elections to be held under the Scheme shall be held on a date to be determined by the Returning Officer.

8.3 Subsequent elections will be held on a four-yearly-cycle on dates to be determined by the Returning Officer.

8.4 Candidates eligible to stand for election should complete a Nomination Form.

8.5 Nomination forms require to be submitted by post or email by the date set down in the election timetable below. No nomination forms submitted after that date will be accepted.

8.6 The timetable for an ordinary Community Council election shall be as follows:

- (a) The Returning Officer shall publish a Notice of Election not less than six weeks before the date of the election.
- (b) Nominations may be submitted at the place or places designated by the Returning Officer between 10.00am and 4.00pm on any day from the day after the Notice of Election is published.
- (c) The closing date for withdrawal of nominations shall be two days after the close of nominations.
- (d) Where a poll is to be conducted, three weeks before the date of election the Returning Officer shall publish a Notice of Poll stating the names and addresses of the validly nominated candidates. At the same date, the Returning Officer shall publish a Notice stating the names and addresses of the validly nominated candidates for those Community Councils where the number of candidates is between six and twelve elected members and stating that these members will be held elected to their respective Community Councils with effect from 11.00am on the date of election.
- (e) Ballot papers shall be issued by post to every person registered as a Local Government elector in the Community Council area not later than two weeks prior to the date of election to be returned to the Returning Officer in the envelope provided at any time until the close of the poll which shall be at 5.00pm on the day of the election.
- (f) The Returning Officer shall make arrangements to conduct a count or counts of the votes returned as soon as practicable after the close of the poll. The count may be conducted over more than one day and at more than one centre.
- (g) At a by-election to fill a vacancy on a Community Council, the Returning Officer may amend or adjust the timetable following consultation with the Community Council,

provided that the period of election for the date of publication of the Notice of Election to the date of Election shall be not less than four weeks.

- 8.7 On the expiry of the period for lodging nominations, the process for an ordinary Community Council election shall be as follows:
- (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 for the Community Council area, the said candidates will be declared to be elected and no ballot all be held.
  - (b) Should the number of candidates validly nominated exceed the total maximum permitted membership as specified 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 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 Comhairle 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;

## **9 CASUAL VACANCIES**

- 9.1 Casual vacancies on a Community Council may arise in the following circumstances:
- (a) When an elected community council members submits her/his resignations.
  - (b) When an elected Community Council member ceases to be resident within that Community Council area.
  - (c) When an elected Community council member has her/his membership disqualified.
  - (d) On the death of a Community Councillor.
- 9.2 Filling a vacancy can be undertaken through co-option. However, should circumstances arise that lead to the number of elected community Councillors falling below **HALF** of the maximum permitted membership, the Comhairle shall be informed and may undertake arrangements for an interim election, where appropriate, to be held.

## **10 CO-OPTION TO COMMUNITY COUNCILS**

- 10.1 Co-opted members must be eligible for membership of the Community Council as detailed in Section 7.
- 10.2 They must be accepted on to the Community Council by a two-thirds majority of the elected Community Councillors present and voting.

- 10.3 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.
- 10.4 Notice of any proposed co-option procedure is required to be intimated to all the Community Council's members at least 7 days prior to the meeting when the matter will be decided.
- 10.5 Community Councils may co-opt up to their maximum permitted membership, as long as the number of co-opted members does not exceed 4 and half of all Community Councillors are elected.
- 10.6 After 6 months from the date of their co-option to the Community Council the co-opted member may become an elected member, if agreed by a simple majority of elected Community Councillors, with the same rights and they will no longer be counted within the ratio of co-opted members.

## **11 ADDITIONAL MEMBERSHIP**

### **11.1 Associate Members**

- (a) 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.
- (b) Associate members may also include representation from other constituted local voluntary organisations.
- (c) Associate members serving one Community Council cannot be elected or co-opted members of any other Community Council unless they are representing constituted local voluntary organisations.
- (d) 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.

### **11.2 Ex-Officio Members**

- (a) Comhairle 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.
- (b) Ex-officio members shall have no voting rights and will not be entitled to be elected or nominated representatives of a Community Council.

## **12 EQUALITIES**

- 12.1 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 ensure that equality of opportunity be given to every participant to have their knowledge, opinion, skill and experience taken into account.
- 12.2 Consideration must also be given by the Community Council as to their meeting place. 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.



### **13 DISQUALIFICATION**

- 13.1 Membership of a Community Council is invalidated should a Community Council member's residency qualification within that Community Council area cease to exist.
- 13.2 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.
- 13.3 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.

### **14 MEETINGS**

- 14.1 The first meeting of a Community Council following a Community Council election will be called by the Returning Officer of the Comhairle and will take place within 21 days of the date of the election, or as soon as practicable thereafter.
- 14.2 The business of that meeting will include adoption of a Constitution and Standing Orders, appointment of office bearers and any outstanding business matters from the outgoing Community Council.
- 14.3 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 May or June each year.
- 14.4 The quorum for a Community Council meeting shall be one third of the current voting membership of a Community Council, or 3 voting members, whichever is the greater.
- 14.5 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.

### **15 VIRTUAL MEETINGS**

- 15.1 If Community Councils cannot meet in person the platform to be used for any virtual meeting is for the Community Council to decide.
- 15.2 Virtual meetings must include the right for public attendance.
- 15.3 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.

### **16 LIAISING WITH THE COMHAIRLE**

- 16.1 In order to facilitate the effective functioning of Community Councils, the Comhairle has nominated an official to liaise with Community Councils.
- 16.2 Unless there is a specific agreement or an issue is a specific departmental issue, all correspondence between the Comhairle and the Community Councils should preferably, in the first instance, be directed through that official unless otherwise advised.

- 16.3 Community Councils shall provide copies of their agendas and minutes, to the Comhairle via the named official.
- 16.4 Community Councils may make representations and requests to the Comhairle and other public and private agencies, on matters for which it is responsible and which it considers to be of local interest.

## **17 RESOURCING A COMMUNITY COUNCIL**

- 17.1 The Financial Year of the Community Council shall be from 1 April to 31 March in each succeeding year to allow for the proper submission of annual accounts to the Community Council's Annual General Meeting for approval.
- 17.2 Following approval at the Community Council Annual General Meeting, the annual accounts of each Community Council shall be submitted to the Comhairle for final approval.
- 17.3 Each Community Council shall have the power to secure resources for schemes, projects, and all other purposes consistent with its functions.
- 17.4 Each Community Council shall be eligible to apply for grants for suitable projects through the Comhairle's grant system.
- 17.5 The Comhairle may provide an administrative grant to Community Councils to assist with the operating costs of the Community Council.

## **18 LIABILITY OF COMMUNITY COUNCIL MEMBERS**

- 18.1 Insurance is required for a Community Council to be operational. The Comhairle will arrange this. This insurance liability cover becomes effective upon the Comhairle advising the insurance underwriter of the establishment of a Community Council

## **19 DISSOLUTION OF A COMMUNITY COUNCIL**

- 19.1 If the Community Council by a two-thirds majority of the total voting membership decides at any time that is necessary or advisable to dissolve, it shall agree a date for a public meeting to be held to discuss the proposed resolution to dissolve.
- 19.2 Not less than ten days prior to the date of such meeting a public notice will be published in the Community Council area giving intention of the proposal to dissolve.
- 19.3 If the resolution is supported by a majority of those persons present and qualified to vote, and is subsequently approved by the Comhairle, the Community Council shall be deemed to be dissolved and all assets remaining, subject to the approval of the Comhairle, after the satisfaction of any proper debts or liabilities shall transfer to the Comhairle who shall hold same in Trust for a future Community Council representing that area. Upon transfer, and the submission of a satisfactory, certified financial report, the potential liabilities of members and officers of the former Community Council are extinguished.
- 19.4 In the event that the Community Council is dissolved under the above procedure, and twenty or more electors subsequently wish the re-establishment of a Community Council for the area, these electors shall submit a requisition to the Comhairle 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 this Scheme.

- 19.5 Where for any reason, the number of Community Councillors falls below HALF the maximum permitted membership in this Scheme the Comhairle may, by suspending the Constitution of the Community Council, cause the Community Council to be dissolved and, in this event, the procedures for the establishment of a new Community Council shall apply.
- 19.6 Notwithstanding the above terms, should a Community Council fail to hold a quorate meeting for a period of 3 consecutive prescribed meeting dates, the Comhairle may take action to dissolve that Community Council or instigate a Special Meeting.