

BENHOLM & JOHNHAVEN COMMUNITY COUNCIL

CONSTITUTION

NAME

1. The name of the Community Council shall be BENHOLM & JOHNHAVEN COMMUNITY COUNCIL (“the Community Council”).

OBJECTS AND FUNCTIONS

2. The objectives and functions of the Community Council shall be:
 - 2.1 To proactively identify and assess issues of concern to the local community. Considering views expressed by the public and any other relevant evidence, it should either take such action as it considers to be suitable or convey its findings and conclusions to the relevant authority for consideration.
 - 2.2 To promote the well-being of the community resident within the Community Council boundaries (“the Community Council Area”) and comply with equal opportunities legislation that makes it unlawful to discriminate against persons or groups on the grounds the nine protected characteristics being age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, marriage and civil partnership, sex and sexual orientation.
 - 2.3 To be a means whereby the people of the Community Council Area shall be able to voice their opinions on any matter affecting their lives, their welfare, their environment, its development and amenity.
 - 2.4 The Community Council shall be non-party political and nonsectarian in their discussions and decision-making and shall comply with data protection and other relevant legislation.

MEMBERSHIP OF COMMUNITY COUNCIL

3. The Community Council shall consist of not fewer than 5 and not more than 9 persons elected by persons resident within the Community Council Area (“the Community Councillors”) and such persons shall be eligible in accordance with Section 3.1 below. In addition to the Community Councillors, the Community Council may consist of Co-opted Members in accordance with 3.2 below, of Junior Members and Ex-Officio Members and the Community Council may appoint Associate Members.
 - 3.1 Community Councillors should:
 - a. be aged 16 years or over, and

- b. reside in the Community Council Area and be on the Electoral Register, or
- c. have had their ordinary or principal residence in the Community Council Area for at least three months prior to nomination, and
- d. not be elected to serve on Aberdeenshire Council, or the Scottish or UK Parliaments.

3.1.1 Provided that the Community Council has a maximum of two places available for Community Councillors who do not reside in the Community Council Area but meet the following criteria: -

- a. are permanently employed in the area of the Community Council; and/or
- b. carry out regular self-employed work in the area of the Community Council; and/or
- c. carry out voluntary work in the area of the Community Council; and/or
- d. own a business in the area of the Community Council; and/or
- e. own a second home in the area of the Community Council.

3.1.2 In terms of 3.1.1 above, a Community Councillor who does not reside in the Community Area cannot be a serving Community Councillor of another Community Council.

3.1.3 Any Community Councillor who no longer meets the eligibility set out in this section, in Section 3.7 below and/or has been disqualified in accordance with Section 9 of the Scheme for the Establishment of Community Councils (“the Scheme”) is not eligible to be a Community Councillor of the Community Council.

3.1.4 Any serving Community Councillor who is elected to serve on Aberdeenshire Council, or the Scottish or UK Parliaments shall be ineligible to remain as a Community Councillor.

3.2 Co-option of Members

- a. The Community Council may, when their elected membership is above the minimum number of Community Councillors specified in Section 3 above, co-opt persons who would be eligible for election to the Community Council as Community Councillors in accordance with Section 3.1. The number of co-opted Community Councillors may not at any time exceed one quarter of the maximum number of Community Councillors.
- b. The proposed members must be elected on to the Community Council by a two thirds majority of the Community Councillors present and voting. Such co-opted members shall have full voting rights, will become Full Members after a period of 6 months in position subject to agreement by a majority vote of

eligible Community Councillors and will serve until the next round of elections. Notice of any proposed co-option procedure is required to be intimated to all of the Community Council's members and the Area Manager at least 10 working days prior to the meeting when the matter of co-option will be decided.

3.3 Junior Members

The Community Council will provide two or more places in addition to its maximum general membership, for persons aged 14 and 15 who live and/or are educated within the Community Area. Such persons will have full voting rights but shall not hold office in the Community Council. Such persons cannot be counted as part of any quorum or the minimum or maximum number of the Community Council.

3.4 Associate Members

The Community Council may engage Associate Members with skills, knowledge and interests which the Community Council consider would be of assistance to the Community Council in carrying out its functions. There is no minimum or maximum number of Associate Members. Associate Members shall not have voting rights and shall not hold office within the Community Council. Associate Members will serve for such time as may be determined by the Community Council at the time of their engagement or until the Community Council decides that their services are no longer required. Associate Members do not form part of the quorum or minimum or maximum number of Community Councillors.

3.5 Ex-Officio Members

The Aberdeenshire Councillors for the area covered by the Community Area shall have ex officio membership of the Community Council during their period of office for the Council but shall not be eligible to vote or hold office in the Community Council. No Aberdeenshire Councillor may be a member of a Community Council other than in an ex officio capacity.

3.7 Membership of the Community Council is disqualified in the following circumstances:

- a. When the Community Councillor's eligibility qualification within that Community Council area ceases to exist, their membership will be automatically terminated.
- b. If any Community Councillor of the Community Council fails to attend three successive Community Council Business meetings, with or without submitting apologies, the Community Council may terminate their membership provided that the termination of the membership

must be an item on a meeting agenda and must be carried with a two thirds majority vote of those present and voting, provided that, at the discretion of the Community Council, a period of leave of absence of up to six months for the Community Council member may be granted and minuted at any meeting of the Community Council. This period may be reviewed by the Community Council

ELECTIONS

- 4.1 Vacancies will be advertised in accordance with the Scheme and a ballot will be held if there are more nominations than vacancies.
- 4.2 Aberdeenshire Council will administer all elections and will appoint a Returning Officer at the commencement of the election period.
- 4.3 Except as otherwise provided by this paragraph, Community Councillors shall hold office for 3 years and shall be eligible for re-election.
 - a. Persons seeking election to the Community Council shall be nominated as prescribed in the Scheme and nominations shall be lodged with the Returning Officer by a prescribed time and date.
 - b. In the event of the number of persons remaining validly nominated for election to the Community Council exceeding the number of vacancies, the election shall be by a secret ballot paper containing a list of the persons validly nominated. The said election shall be arranged by the Council in consultation with the Community Council in terms of the Scheme.
 - c. In the event of any casual vacancy or vacancies the Community Council, in consultation with Aberdeenshire Council shall arrange to hold an election in the prescribed way.
 - d. The Community Council may, where its elected membership is at or above the prescribed minimum number and does not comprise the maximum number of Community Councillors, co-opt persons who would be eligible for election to the Community Council as members. The number of members so co-opted may not at any time exceed one quarter of the maximum number of Community Councillors.
 - e. Co-opted members must be elected on to the Community Council by a two-thirds majority of Community Councillors being present and voting. Notice of any proposed co-option procedure is required to be intimated to all that Community Council's members at least 10 working days prior to the meeting when the matter will be decided.
 - f. Members so co-opted may serve until the next ordinary election to that Community Council, with full voting rights, see 3.2 b above.
 - g. The Community Council may also engage any number of Associate Members to the Community Council, being any person or persons (resident either within or without the Community Area) and

- i. such persons shall be engaged only for such period or respective periods as shall be agreed by the Community Council at their time of engagement or until the Community Council decides that their services are no longer required and
- ii. such person or persons shall not be entitled to vote.

MEETINGS

- 5.1 During the month of June in each year the Community Council shall convene an Annual General Meeting (AGM), the agenda for which shall include items for receiving the Community Council's Annual Report and the independently verified Statement of Accounts, provision when necessary for considering and voting on proposals for amendment of the Community Council's Constitution all in accordance with Appendix 1 below.
- 5.2 The Community Council shall meet throughout the year at intervals of *not less than five ordinary business meetings and one AGM in any twelve-month period*. The dates of these regular meetings during the remainder of the year shall be agreed at the AGM.
- 5.3 The Community Council shall, upon receipt of a requisition signed by twenty electors within the Community Area, convene a special meeting, to be held within 15 working days of receipt of that requisition, or such shorter period as may be specified by the Community Council, to consider the business which must be specified in the requisition and in the notice calling the meeting.

OFFICERS OF THE COMMUNITY COUNCIL

- 6.1
 - a. The Community Council, at its first Inaugural Meeting after the initial and subsequent elections, shall elect one of its members to be Chairperson and may elect one of its members to be Vice-Chairperson. The office of Chairperson shall not be combined with any other office, nor shall one person hold more than two positions.
 - b. The Community Council shall appoint and shall have power to dismiss a Secretary and a Treasurer whether or not from among its Community Councillors.
 - c. The Community Councillor(s) serving as Secretary or Treasurer or Secretary/Treasurer shall not be entitled to remuneration, but the Community Council may, at its discretion, award honoraria to such Community Councillors together with expenses actually incurred and supported by receipts or vouchers. The Community Council may pay appropriate remuneration to a Secretary and Treasurer or Secretary/Treasurer appointed outwith its own membership.
 - d. The Community Council shall appoint a representative(s) to the local forum or equivalent who shall be entitled to vote in respect of any matters raised at a meeting of the forum or equivalent. Area based forums will facilitate engagement on local community planning issues.

STAFF

7. In addition to the offices of Secretary and Treasurer or Secretary/Treasurer the Community Council shall have power to appoint and dismiss such other staff as it may from time to time determine, subject to the observance of employment law.

COMMITTEES AND SUB-COMMITTEES

8. The Community Council shall have powers to appoint such Committees and/or Sub-Committees or sub-groups as it may from time to time decide and shall determine their terms of reference, powers, duration and composition.

FINANCE

9.
 - a. All monies raised by or on behalf of the Community Council shall be applied to further the objects of the Community Council and to maintain its administrative structure.
 - b. The Community Council shall have the power to secure resources for schemes, projects and all other purposes consistent with its functions and shall be eligible to apply for grants for suitable projects.
 - c. The Council will provide an administrative grant to the Community Council to assist with the operating costs of the Community Council.
 - d. The Treasurer or Secretary/Treasurer shall arrange for a bank account(s) to be held in the name of the Community Council and shall have responsibility for:
 - i. the proper management of the Community Council's financial affairs; and
 - ii. keeping proper books of account showing the finances of the Community Council.
 - iii. Two signatures / approvals by Office Bearers will be required for all payments by cheque, bill or electronic payment respectively
 - e. The Community Council shall appoint an independent verifier-to independently verify the accounts of the Community Council annually.
 - f. Independently verified Statement of Accounts of the Community Council for the last financial year shall be submitted by the Community Council to the Annual General Meeting. The Community Council's financial year shall run from 6 April.

- g. The Title to all and any heritable property which may be acquired by or for the purpose of the Community Council shall be taken in the name of the Chairperson, and Secretary of the Community Council and their successors in their respective offices as trustees for the Community Council.
- h. The Community Council must comply with Section 13 of the Scheme and must have sufficient and adequate insurance to cover the Community Council in the event of claims being made against the Community Council and must be able to demonstrate to the Council that this insurance cover is in place. This will be reimbursed by the Council.
- i. The Community Council must be registered with the Information Commissioner's Office for Data Protection and must be able to demonstrate to the Council that this registration is in place. The cost of Registration will be reimbursed by Aberdeenshire Council.
Following the approval of the independently verified Statement of Accounts at the AGM, the following must be forwarded as soon as practicable to the Area Manager in order to release the Community Council Grant:

A copy of the accounts

The draft AGM minute showing acceptance of the accounts.

Proof of Insurance Cover

Proof of registration with the Information Commissioner

RETURN OF OFFICE- BEARERS AND OTHERS

- 10. Following the first meeting after each election the Community Council shall lodge with the Area Manager for the Area of Aberdeenshire Council in which located and the Community Council Secretary a return specifying the full names, addresses and designations of:
 - a. office-bearers.
 - b. elected, co-opted, and associate members; and
 - c. independent verifier

and shall notify the Area Manager in writing any change to office-bearers, members and independent verifier/s.

AMENDMENT OF CONSTITUTION

- 11.
 - a. Any proposal to amend the Constitution must be delivered in writing to the Secretary of the Community Council at least 20 working days before the date of the meeting at which the proposal is first to be considered.
 - b. Subject to the provisions of paragraph 4 any alterations to the Constitution will require approval of:

- i. a majority of two-thirds of those present and voting in favour thereof at an Annual General Meeting or a Special Meeting convened for that purpose, and
 - ii. the Area Manager on behalf of Aberdeenshire Council
- c. Notice of any General Meeting at which a proposal to change the Constitution of the Community Council is to be considered shall be given 10 working days prior to the date of the meeting and such notice shall detail the wording of the proposed alteration.

SUPPORTED STATUS AND DISSOLUTION

12. Supported Status, Dissolution and Voluntary Dissolution of the Community Council will only take place in accordance with the Scheme for the Establishment of Community Councils.

SCHEME FOR THE ESTABLISHMENT OF COMMUNITY COUNCILS

13. The Community Council shall not do anything which is inconsistent with Aberdeenshire Council's Scheme for the Establishment of Community Councils and in the event of any inconsistency, the Scheme for the Establishment of Community Councils shall take precedence.

DISCIPLINARY PROCEDURES

14.

- a. The Community Council will adopt and agree to the Model Code of Conduct for Community Councillors as described in guidance 5 to the Scheme for the Establishment of Community Council, 1st of January 2022. Attached as Appendix 2.
- b. In the event of a complaint by a member of the Community Council or a third party that the Community Council or a member of the Community Council is in serious breach of the Community Councillors Code of Conduct or has otherwise brought the Community Council into disrepute it shall be dealt with in accordance with the Complaints and Appeals Procedure in Section 17 and Guidance⁸ of the Scheme for the Establishment of Community Councils.

