

KEMNAY COMMUNITY COUNCIL CONSTITUTION (Revised JUNE 2024)

NAME

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

OBJECTS AND FUNCTIONS

2. The objects and function of the Community Council shall be:
 - 2.1 To proactively identify and assess issues of concern to its local community. Taking into account 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 finding 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 Provided that the Community Council shall be non-party political and non-sectarian 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 15 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 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 The Community Council may have a maximum of two places available for Community Councillors who do not reside in the Community Council Area provided they 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

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 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 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. 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 decide 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.

3.6 The allocation of Community Councillors between the areas within the Community Area shall be as follows: **none**

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 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.
- 4.4
 - 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.

- g. The Community Council may also engage 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 monthly intervals, excluding July, August and December when the Community Council shall be in recess; the dates of 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 meeting (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.
 - b. The office of Chairperson shall not be combined with any other office, nor shall one person hold more than two positions.
 - c. The Community Council shall appoint and shall have power to dismiss a Secretary and a Treasurer whether or not from among its Community Councillors. The offices of Secretary and Treasurer, but no other office-bearers may be combined.
 - d. 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.

- e. 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.
- e. The Community Council shall appoint an independent verifier, acceptable to Aberdeenshire Council, 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 1 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.
- 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. Following the approval of the independently verified Statement of Accounts at the AGM, a copy of the accounts, the draft AGM minute showing approval of accounts, proof of insurance cover and proof of registration with the Information Commissioner (Data Protection) must be forwarded as soon as practicable to the Area Manager in order to release the Community Council Grant.

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 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. 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 Guidance 8** of the Scheme for the Establishment of Community Councils.

APPENDIX 1

STANDING ORDERS

The Standing Orders contain the rules which regulate the business and proceedings of the Community Council.

1. Meetings

1.1 First meeting after election

1.1.1 The first Meeting of a Community Council after a full election shall be known as the inaugural meeting. It shall be arranged by the Area Office and held within 15 working days of the completion of the election process.

The business of that meeting shall include:

- a. Appointment of office bearers (Chairperson, Vice Chairperson, Secretary, Treasurer)
- b. Approval of Constitution and Standing Orders (if appropriate)
- c. Confirmation of meeting dates for remainder of current year.

1.1.2 The Returning Officer appointed in respect of the election shall convene and Chair the first meeting. This meeting shall be chaired by the Returning Officer, until a Chairperson has been elected by the eligible voting members of the Community Council.

1.1.3 Following the first meeting after an election, each Community Council shall lodge with the respective Area Manager a return specifying the full names, designations and addresses of the Community Council's office-bearers and verifier of their accounts and must subsequently advise the Area Manager, in writing, of all changes.

1.2 Ordinary Meetings

1.2.1 The frequency of meetings will be determined by each Community Council, subject to a minimum of five ordinary meetings and one Annual General Meeting being held each year.

1.2.2 All Community Council Meetings shall be held at the times and locations detailed in accordance with the programme approved by the Community Council.

1.2.3 Meetings of the Community Council may be face-to-face, hybrid or online as long as these meetings are accessible to members of the public interested in attending.

1.3 Annual General Meeting

1.3.1 The Annual General Meeting (AGM) of a Community Council shall be held in May or June each year. The business shall include:

- a. Consideration of the Community Council's Annual Report
- b. Consideration and approval of the independently verified Statement of Accounts
- c. The election / re-election of any Office Bearers
- d. The approval of the Community Council's Annual Budget
- e. Voting on any proposals for amendment to the Community Council's Constitution.

1.3.2 Following the approval of the independently verified Statement of Accounts at the AGM, a copy of these accounts, the draft AGM minute showing approval of accounts, proof of insurance cover and proof of registration with the Information Commissioner (Data Protection) must be forwarded as soon as practicable to the Area Manager in order to release the Community Council Grants

1.4 Special Meetings

1.4.1 A Special Meeting may be called:-

- a. by the Chairperson; or,
- b. by one-fourth or more of the current eligible voting membership of Community Council; or
- c. By requisition signed by twenty electors within the Community Council area; or
- d. By an office bearer, to enable the implementation of the Community Council Complaints and Review Procedure in Guidance 5.

1.4.2 The Special Meeting requisitioned in accordance with 1.4.1.c above shall be held within 15 working days of receipt of the requisition by the Community Council.

1.5 Calling Meetings

1.5.1 For all Meetings (with the exception of a Special Meeting in terms of Section 11 of the constitution) a notice will be published at least 3 working days before the date of the Meeting, which will:-

- a. detail the time and place of the Meeting; and
- b. if it is a Special Meeting, name the members who have called the Meeting, or if a requisition from electors has been received, and the business which is to be considered.

1.5.2 The notice and agenda of meetings shall be placed in a suitable public place.

1.5.3 In addition to the notice, all members of the Community Council including associate, junior and ex officio members must be invited to each meeting.

- 1.5.4 If a meeting is adjourned to a new day, notice and summons will be issued in accordance with section 1.5.1 above.

1.6 Cancelling Meetings

- 1.6.1 The Chairperson may cancel or reschedule any meeting because of a lack of business or in exceptional circumstances. Notice of the cancellation must be given as soon as practicable. All members (including associate, junior and ex-officio members) should be advised and a public notice confirming the cancellation should be displayed at the meeting venue as well as on the Community Council's website.

2. Members attendance At Meetings

2.1 Quorum

- 2.1.1 There must be a minimum number of Community Councillors present at a Meeting. This is known as the quorum. The quorum for each Meeting shall be at least one-third of the current eligible voting membership of a Community Council or three current eligible voting members, whichever is the greater. No business can be determined at a Meeting unless a quorum is present.
- 2.1.2 If at any time during a Meeting there is a question about whether or not there is a quorum, the Chairperson will, after allowing an interval of ten minutes, ask the Secretary to count the number of members present. If a quorum is not present, the Meeting will be adjourned.
- 2.1.3 If, ten minutes after the time set for the start of a Meeting a quorum is not present, the Meeting will be abandoned, and the Secretary will record that no business was considered because there was no quorum.

2.2 Substitute Members

Community Council members may not appoint substitutes to attend any Meetings in their place.

3. The Agenda,

- 3.1. Agendas of Meetings shall be made available for public access within the Community Council area at least 3 working days prior to the holding of any meeting.
- 3.2 Community Councils shall provide copies of their agendas within the prescribed timescales to the Council via the Area Manager.

- 3.3 Community Councils displaying their agendas online should ensure that these are displayed online at least 3 working days prior to the holding of any meeting

4. DURING MEETINGS

4.1 Arrangements for Chairing Meetings

- 4.1.1 At a Meeting the Chairperson, if present, will preside.
- 4.1.2 If the Chairperson is absent from a Meeting, the Vice Chairperson will preside. If they are both absent, another member of the Community Council chosen by the majority of the Community Councillors present, shall preside as Chairperson.
- 4.1.3 At all times during a Meeting, members will respect the authority of the Chairperson. If the Chairperson speaks, any member who is speaking to the Meeting will stop.
- 4.1.4 The Chairperson's duty is to preserve order at the Meeting and ensure that members are given a fair hearing. If two or more members try to speak at the same time, the Chairperson will decide who is to speak first.
- 4.1.5 The Chairperson will decide all matters of order, admissibility and urgency and that ruling will be final.
- 4.1.6 The Chairperson will ensure that the decision of the Meeting is clear with regard to all matters which form the business of the Meeting.
- 4.1.7 If a member persistently misbehaves by disregarding rulings by the Chairperson, or behaves improperly or offensively, or willfully obstructs the business of the Meeting, the Chairperson may take the following courses of action sequentially:-
- a. Warn the member about their behaviour,
 - b. Tell the member not to speak during the remainder of the debate on the item being discussed,
 - c. Move that the member should not speak again during the Meeting. The motion, if seconded, will be decided without discussion; if the motion is carried the member will not speak again during that Meeting,
 - d. Move that the member should be suspended for the remainder of the Meeting. The motion, if seconded, will be decided without discussion; if the motion is carried, the member will leave the Meeting immediately,
 - e. Adjourn the Meeting for a short time as seems reasonable to the Chairperson in the circumstances.
- 4.1.8 If there is disorder at any Meeting, the Chairperson will be entitled to adjourn the Meeting to later that day. If that is not practicable, the Meeting may be adjourned to another date and time as the Chairperson may decide then or afterwards.

4.2 Business at Meetings

4.2.1 The business of the Community Council at any meeting shall proceed in the order of the agenda except that the Chairperson may, at their discretion, alter the order of business at any stage. Agendas and minutes of the Community Council shall be made available in advance at an appropriate place.

4.2.2 No item of business shall be transacted at a meeting of the Community Council unless it is specified in the notice calling the meeting, or any supplementary notice, unless the Chairperson is of the opinion, by reason of special circumstances which shall be specified in the Minutes, that an additional item should be considered at the meeting as a matter of urgency.

4.3 Rules of Debate and how motions and amendments are moved and decided

4.3.1 Every motion and amendment must be moved and seconded.

4.3.2 Where the Chairperson rules any purported motion or amendment as irrelevant or incompetent, it shall not be put to the meeting.

4.4 How votes are taken

4.4.1 A vote can be taken by calling the roll or by show of hands, the names will not be recorded in the Minute.

4.4.2 When there is more than one amendment to the motion, then, unless the Chairperson decides otherwise in order to avoid inconsistency in voting, the last amendment shall be put against the amendment immediately preceding. The amendment which is carried shall be put against the next preceding amendment. This process will continue until there is only one amendment remaining. A vote will then be taken between the motion and the remaining amendment, and whichever is carried will be the decision of the Meeting.

4.4.3 In the case of an equality of votes, the Chairperson will have the right to a second or casting vote.

5. PUBLIC PARTICIPATION AT MEETINGS

The Community Council welcomes public participation at its Meetings. The following arrangements are designed to enhance and regulate public participation at Meetings.

5.1 Public Access to Meetings

5.1.1 Every Community Council meeting will be open to the public, except in the special circumstances set out in 3-5 below.

5.1.2 No person or body shall be permitted, without the permission of the Meeting, to tape record, photograph, video, film or use any other form of electronic, digital or computerised sound or visual recording system during any Meeting.

- 5.1.3 The public must be excluded from a Meeting when an item of business is being considered if it is likely, because of the business itself or what might be said at the Meeting, that confidential information (as meant by the relevant law¹) would be given to members of the public.
- 5.1.4 The Community Council may decide, by passing a resolution at any Meeting, to exclude the public when it is considering an item of business if it is likely, because of the business itself or what might be said at the Meeting, that exempt information (as meant by the relevant law as referred to in 5.1.3 above) would be given to members of the public. The resolution to exclude the public will make clear the proceedings or which part of the proceedings of the Meeting it applies to and state the description of the exempt information.
- 5.1.5 The Community Council, in order to stop or prevent disorderly conduct or other misbehaviour at a Meeting, may exclude or eject members of the public whose presence or conduct is impeding or is likely to impede the Meeting. If a member of the public interrupts any Meeting, the Chairperson may warn the person. If they continue the interruption the Chairperson may order that they immediately leave the Meeting.

5.2 Petitions and Requests to Speak at Meetings

- 5.2.1 Members of the public may submit a Petition or request to speak for items on an agenda and not on an agenda to the Community Council as soon as practicable before the meeting at which they wish to attend and/or speak at.
- 5.2.2 If, in the opinion of the Chairperson, the subject matter of the Petition and/or the request to speak is a matter in which the Community Council has a general interest and it is competent and relevant for them to consider, the member of the public shall address the Meeting.
- 5.2.3 If a member of the public is attending a Meeting, it is at the discretion of the Chairperson to allow the person to speak to the Meeting.

6. AFTER THE MEETING

6.1 Minutes of Meetings

- 6.1.1 Minutes of Community Council meetings must be approved at the next meeting of the Community Council. Approved minutes of Community Council's meetings must be presented to the Council within 10 working days from the date of the meeting at which the minutes were approved and shall be made available for public access by the Community Council within the Community Council area.

¹ Section 50A and Schedule 7A of the Local Government (Scotland) Act 1973

- 6.1.2 No discussion or amendment will be competent on a Minute submitted at any Meeting for approval other than any amendment or discussion to the effect that they are not a correct record. Any amendment will include the words of the alteration which is proposed to the Minute. An objection to the correctness of a Minute will be dealt with by way of an amendment to a motion to approve the Minute.
- 6.1.3 Only Community Councillors who were present at the Meeting to which a Minute relates may vote on the correctness of the Minute.
- 6.1.4 Approved minutes should be signed by the Chairperson and retained for future reference.
- 6.1.5 Community Councils shall provide copies of their draft minutes and approved minutes within prescribed timescales to the Council via the Area Manager.
- 6.1.6 Community Councils displaying minutes online should ensure that the approved minutes are added to the website and that this is done within 10 working days of the meeting at which the minutes are approved.

7. SUSPENSION OF STANDING ORDERS

- 7.1 These Standing Orders shall not be suspended except at a meeting at which three quarters of the total number of elected Community Councillors are present and only if the mover states the object of the motion and if two thirds of the Community Councillors present consent to such a suspension.