# **Good Practice Guidance for Community Councils and Local Authorities (Part 1)**

## ***Background***

This Good Practice Guidance Document is an update to the Guidance first published in 2009. The changes reflect updates to legislation and national policy and takes into account developments in digital engagement and communications since 2009.

This document is a “living document” and its purpose is to support the Model Scheme of Establishment of Community Councils which has also been updated in 2023, along with the Model Constitution, Standing Orders and Code of Conduct. These three documents will be referred to as ‘associated documents’ throughout this guidance.

This will enable both Community Councils and local authorities to work together to ensure that Community Councils have the capacity and capability to engage effectively in an open, transparent and inclusive manner. Working alongside other community organisations, this will enable them to represent their community and help inform strategic decisions from a grass-roots level.

The aim is that this guidance, the Model Scheme of Establishment and associated documents will be updated as and when there are changes to legislation or to circumstances which require a response. This will be assessed regularly, but in the meantime Community Councilors and Community Council Liaison Officers (CCLOs) can submit any suggested changes and additions they think should be made to these documents by using this email address: [scottishccsuggestionbox@improvementservice.org.uk](mailto:scottishccsuggestionbox@improvementservice.org.uk)

This document will be of particular use for new Community Councilors as part of the induction process as it provides a comprehensive introduction to Community Councils and their workings, along with information provided locally by each local authority.

A key development since 2009 is the [Scottish Community Councils website](https://www.communitycouncils.scot/) which is also a useful resource for Community Councils seeking guidance on a variety of issues.

The website includes more detailed information on issues contained within this guidance document, such as [Community Council roles](https://www.communitycouncils.scot/what-is-a-community-council/what-are-the-roles-in-a-community-council), [responding to planning enquiries](https://www.communitycouncils.scot/what-is-a-community-council/consultation-on-planning) and [community engagement](https://www.communitycouncils.scot/what-is-a-community-council/community-engagement). It also features regular [news updates](https://www.communitycouncils.scot/news) on sources of funding, consultations and others resources which might be of interest to Community Councils, along with [case studies](https://www.communitycouncils.scot/the-work-of-community-councils/showcases) of successful Community Council projects.

Training resources are also available through the [Scottish Community Councils partnership with the Open University](https://www.communitycouncils.scot/help-and-support/skills-and-learning), which gives Community Councilors access to free courses on digital skills, business skills, finance and fundraising and community and society. There is also a social media guide, [#FollowMe](https://www.communitycouncils.scot/__data/assets/pdf_file/0018/40428/CC-Social-Media-Guide-2022.pdf), which was published in 2022.

You can also access information on a range of [cost of living resources](https://www.communitycouncils.scot/help-and-support/cost-of-living-hub-for-community-councils) from national advice organisations as well as finding out what help is available from local councils.

## ***Introduction to Community Councils***

Community Councils were introduced through the Local Government (Scotland) Act 1973. The Act defined the purpose of a Community Council as:"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."

There are currently approximately 1,200 active Community Councils in Scotland. This enables Community Councils to get involved in a wide variety of issues such as road improvements, youth projects, environmental initiatives, upgrading of amenities and community initiatives. This is just a small example of activities which might benefit their area, either working on their own or in partnership with other agencies.

The boundaries of their communities are usually defined naturally, hence the name “Community Council”. The features and rules that describe these boundaries, including the number of Community Council representatives, the populations they represent and their election procedures are determined by each parent local authority through the Scheme for Community Councils.

The Local Government Scotland Act 1973 empowered all local authorities to assist Community Councils, both with funding and administrative support.

A Community Council can act as a campaigning body in raising awareness of specific local issues. They can be particularly useful in co-ordinating smaller, local organisations to ensure that resources are being used efficiently and effectively.

The local authority, in return, has a duty to consult Community Councils on how local services are delivered and other issues affecting their neighbourhoods. Community Councils have the right to be consulted on planning applications in their areas and are also kept informed about licensing applications.

The Community Empowerment (Scotland) Act 2015 also provides new statutory rights for Community Councils along with other community organisations. This includes Part 3 Participation Requests and Part 8 Common Good. The Planning (Scotland) Act 2019 has also strengthened Community Council’s engagement with the planning system.

### ***Examples of Community Council Activities***

Activities can include :

* writing letters following a meeting of the Community Council in order to highlight an issue
* attending meetings with public officials
* holding a public meeting either at regular intervals or in response to a specific issue, or to find out what are the areas of concern within the community
* carrying out surveys in the area, typically by using questionnaires
* meeting with other Community Councils or other community groups
* writing in response to a draft policy report or consultation document
* receiving and responding to enquiries and problems raised by members of the public
* sending representatives to attend a meeting of a council area committee, advisory group or regeneration partnership
* producing a newsletter and distribute it to all homes in the area, or electronically via social media or the Community Council website
* arranging for public officials or others to attend future meetings of the Community Council
* negotiating codes of practice with local authorities
* arranging community events such as gala days, fetes, or clean up days in order to promote the Community Council.

## ***Role of the Community Councillor***

The role of the Community Councilor is to represent the views of the community. This means not offering personal views and opinions on local issues, or taking decisions that are based on self-interest. The role involves discussing issues with people in the community to clarify their views and assess the strength of their feelings on different topics. When representing members of the community on a particular interest, a Community Councilor must check out the facts of the situation before taking matters to the Community Council. There are two sides to every story, so make sure that both sides are put forward. There is little point in taking up time at meetings to discuss problems that are based simply on misunderstandings or misrepresentations of the facts.

At some point it may be that you will find some conflict between your own personal views and interests and those of the community that you are representing. If such a situation does arise, try to make sure that the views of the community take precedence. Experience shows that if the views of individuals on the Community Council are allowed to take priority then the community will very quickly lose confidence in the Community Council and its work may subsequently be devalued.

In some instances, it may be necessary and appropriate to declare an interest in the matter under discussion and to withdraw from that debate and decision-making.

The task of any Community Council is to identify the needs and aspirations of its community and to take decisions that will lead to appropriate action in that community. At some point this might involve setting priorities on the competing or conflicting needs of different sections of the community.

Competition and conflict are normal in any community, so you shouldn’t think of them as something that can be altogether avoided. What is important is that you approach competition or conflict in a fair and reasonable manner. This means taking a balanced view of your community’s needs and aspirations and giving a fair hearing to representatives from different interest groups in your community. In particular, you should try to avoid being influenced by prejudice or bias, whether in the sphere of race, religion, gender or any other of the "labels" which get attached to people and to local issues.

## ***Role of Office Bearers***

Each Community Council must have a Chairperson, a Treasurer and a Secretary – the office bearers – and these roles carry the most responsibility. The office bearers, as elected members representing their local communities are responsible for the efficient and effective operation of the Community Council working within the Local Authority’s Scheme of Establishment for Community Councils. All members of the Community Council are equally responsible for the Community Council’s decisions and actions and may take on additional activities in support of the Community Council. The office bearers’ roles are described below, followed by an outline of other potential roles within a Community Council

### **The Chairperson**

The Chair is elected in accordance with the rules set out in the Community Council’s own Constitution. The chairperson is responsible for ensuring that discussions are productive whilst adhering to the agenda, that meeting runs to time and that clear action points are set.

In regular meetings the role of the Chair is a *formal* one, all speakers will be expected to address their comments to the Chair. This helps the Chair to keep control of the discussion. In Committee meetings, where proceedings need not be so formal, the Chair may be content simply to steer the general direction of the discussion – this may be described as an *enabling* role. The extent to which a Chair adopts one or the other of these will be dependent upon the circumstances at a particular time or occasion.

Perhaps most importantly of all, the Chair is expected to know the rules by which the Community Council functions, and ensure that at all stages of its work the Community Council is operating in accordance with any procedures that are set down. In this context the Chair may be called upon to act as an arbiter when there is a disagreement about how the rules should be interpreted.

It is important to recognise that the Chair’s role extends outwith the meeting itself. The Chair may be called upon to act on behalf of the Community Council between meetings, or to represent the Community Council in dealing with outside bodies. This role may also be delegated by the Community Council to other office bearers or members.

### **The Vice Chair**

The Role of the Vice Chair is to stand in for the Chair when unable to attend a meeting and often the Vice Chair is the next “Chair in waiting”.

### **The Secretary**

The Secretary ensures the smooth running of the Community Council by organising on-line or in person meetings, booking venues, setting the agenda and keeping minutes and records. The secretary also ensures effective communication between committee members, members of the public, the media and local authority officers.

### **The Treasurer**

The Treasurer is responsible for maintaining the Community Council’s financial records, making payments on behalf of the Community Council and any charities and/or other funds dispersed by the Council. This includes managing the bank account, ensuring money is only spent in a manner approved by the Community Council Members as recorded in the minutes.

The Treasurer ensures that any financial transactions are signed by two persons authorised by the Community Council Members as recorded in the minutes, and notified to the bank in writing. It is good practice to have more than two authorized signatories, in the event of someone being unavailable at short notice. The Treasurer must keep proper accounts of all receipts and expenditure and prepare an Annual Statement of Accounts. Councils should use an independent, external examiner to approve the accounts. This need not be a professional accountant, but should be someone who has some relevant knowledge and experience of finance.

Another key role for the Treasurer is reporting and answering any questions raised by Members of the Council or the public on the **Statement**, this must be formally approved at the next AGM. When statement certified and approved, it should be sent to the local authority, as part of the process of applying for the annual administration grant. The standard form of words for the Treasurer’s Certificate is: ***“I certify that the above accounts have been prepared by me and accurately reflect the financial provisions relating to the period …..”***

***Scheme of establishment review process***

This step-by-step guide to a review process for a Scheme for the Establishment of Community Councils is largely taken from the original Scottish Office publication: Local Authorities and Community Councils: Enhancing the Relationship. The guide is however, supplemented by a practical example of a timetable with decision-making process; and Press Notices for the execution of a review process.

The statutory basis for establishing Community Councils is set out in Sections 51 to 55 of the Local Government (Scotland) Act 1973 <https://www.legislation.gov.uk/ukpga/1973/65/section/51>. This is supplemented by Section 22 of the Local Government etc. (Scotland) Act 1994: <https://www.legislation.gov.uk/ukpga/1994/39/section/22>

### **Decision to amend a Scheme**

There can be several reasons for a local authority to consider the amendment of a Scheme and this is most commonly a changing local landscape or demographic shifts. The following provides step by step actions to take:

1. A Special Council meeting (please note that all of the Council meetings referred to in this section should be Special Council meetings, held for that purpose. The most common mechanism for this is that the Special Council meetings are held immediately before the calendared Council meetings) considers a report on the intention to amend its Scheme for the Establishment of Community Councils under Section 53. - (1) of the Local Government (Scotland) Act 1973.
2. Upon approval of the report, a Public Notice is published in the local Press to that effect with an, at least, 8-week consultation period for any representations to be made on the: ***‘draft amended areas and composition of the Community Councils’***.
3. A Special Council meeting considers a report on the outcome of the consultation exercise on the draft amended areas and composition of the Community Councils; and additionally, the contents of a proposed draft amended Scheme.
4. Upon approval of the report, a second Public Notice is published in the local Press to that effect with an, at least, 8-week consultation period for any representations to be made on the: ***‘draft amended Scheme’***
5. A Special Council meeting considers a report on the contents of a draft amended Scheme and its adoption.
6. Upon approval of the report, a third Public Notice is published in the local Press to that effect with a, commonly, 4-week consultation period for any final representations to be made on the draft amended Scheme, together with associated documentation, including Community Council boundaries
7. A Special Council meeting considers final representations and agrees the ‘Amended Scheme for the Establishment of Community Councils’.
8. A fourth Public Notice is published ***‘of the Scheme in its amended form together with Public Notice of such a Scheme as it applies to each proposed area, by exhibition in that area, and any such notice shall contain an invitation to electors in the area concerned (\*where there is currently no Community Council established) to apply in writing to the local authority for the establishment of a Community Council in accordance with the amended Scheme’***. The already established Community Councils operate as normal under the new Scheme until their new prescribed election dates come around.

Please note that there may be instances when a consultation period does not attract any or any substantive representations. However, as the legislation illustrates a staged approach to the process, the most common complete statutory review period would be 8-weeks, 8-weeks and finally, 4-weeks.

**\***No invitation to petition the Council for the establishment of a Community Council is required for currently established Community Council areas as the new Scheme would automatically come into force for them to continue as normal.

## ***Election procedures***

Elections are the key to ensuring appropriate and effective representation is achieved for Community Councils. Elections are therefore to be encouraged and Community Councils should receive appropriate support to administer elections where needed.

This guidance outlines best practice that is recommended to be followed when undertaking Community Council elections, key elements that require to be adhered to are detailed in the Local Authority Community Council Scheme.

Procedure for elections by existing Community Councils

### **Voting for candidates for election to a Community Council may take the following form:**

* Secret ballot utilising ballot papers and box.
* Show of hands

The notice declaring the intention to conduct an election, and seeking nominations of candidates for election to the Community Council must be publicly advertised at least twenty eight days before the date on which the election, by whatever form, is to take place.

The notice must contain details of:-

* the name and address of the person responsible for issuing and receiving nomination forms;
* the closing date and time for receiving nomination forms which must be at least fourteen days before the election takes place;
* the closing date and time for receiving application forms for inclusion in the supplementary roll which must be at least fourteen days before the election takes place; and
* the date on which elections will take place and the statement as to how the election will be run

Community Council elections can be completed without a ballot. If the number of nominations received does not exceed the number required to establish the Community Council, then all those nominated will be considered duly elected to the Community Council without the need for a ballot.

There are three types of Community Council election:

* Establishing a Community Council – this begins with receipt of a petition and seeks to establish a Community Council where one has not previously existed.
* Re-establishing an existing Community Council as part of the usual election cycle.
* Interim election process to fill vacancies – this is a response to vacancies arising and can be filled at any time.

***Training and development of community councils***

Training may be provided in-person or online by the local authorly. There is also a training portal available on the Scottish Community Councils website:

<https://www.communitycouncils.scot/help-and-support/skills-and-learning> , which gives Community Councilors free access to Open University courses on range of useful subjects.

The aim of training and development is to enable Community Councilors to develop their individual skills, build their capacity to engage with the public agencies and acquire new skills. This will enable each member to participate as fully as possible in the work of the Community Council to benefit their communities.

Basic training needs can include Roles and responsibilities, Policy and procedure, Licensing, Planning and other relevant topics. Specific training needs can include Chairing meetings, keeping financial records and writing minutes. Training must be delivered and targeted at the needs of the individual or the Community Council as a whole. Training could be delivered by:

* + Community Council Liaison Officers.
  + Individual local authority departments such as Planning.
  + Outside agencies such as third sector interfaces (TSI), Scottish Community Development Centre (SCDC), Planning Aid Scotland and the Scottish Community Councils project.
  + Community Councils themselves for example through peer support.

## ***Area forum membership***

### **Background**

Community Councils in several Local Authority areas across Scotland have formed themselves into Forums or Associations. Forums tend to receive support from the Local Authority, either through grant funding, or more typically through in-kind support in the form of staff time, venue provision, and administrative resourcing.

### **Why have a Community Council Forum?**

A Community Council Forum can be a support group for all Community Councils within a Local Authority area - particularly those who are newly established - providing an informal source of knowledge and experience. It can also enable its constituent members to exchange information, and to identify common issues. By working together, Community Councils can amplify their voices and advocate more effectively for their neighborhoods. Joint forums can also facilitate communication and build relationships between different community groups, helping to create a more cohesive and connected community. Forums can provide a channel for Community Councils to act together.

### **What does a Community Council Forum do?**

The typical aims of a Community Council Forum are:

* Promote the role, effectiveness and status of Community Councils;
* Facilitate communication and collaboration between different Community Councils
* Share information and resources about local issues and concerns.
* Enhance the capacity of Community Councils to effectively represent their neighborhoods and address local concerns.
* Be a voice for Community Councils within a local authority area
* Provide a forum for discussion of matters of common interest to Community Councils
* Consult with representatives of Community Councils in other areas on matters of mutual interest.
* Promote civic engagement and participation in local government. Work with the Local Authority and other public agencies.
* Identify opportunities for joint initiatives or projects that can improve the quality of life in the community.
* Foster a sense of community and belonging among residents.
* Provide a platform for residents to voice their concerns and have their voices heard by local decision-makers.

***Core funding from local authorities***

Resourcing Community Councils is an issue where Local Authorities undertake arrangements to suit local circumstances. Some local authorities may provide Community Councils in their area with office space, administration budgets and administrative support, but this is not the case in every local authority area.

### **Grants - Acceptable Areas of Expenditure**

When a Community Council is established it may be awarded a start-up grant to cover initial administrative expenditure. In addition to this a Community Council, once established will receive an annual administrative grant. Further to this when the Community Council has been established the administration grant is paid annually, on submission of audited annual accounts covering all income and expenditure of the Community Council for the previous financial year, minutes and current bank statements.

The purpose of the administrative grant is to cover the costs in administering Community Council business. Examples of such costs are detailed below:

* Insurance
* Auditors' fees
* Production and circulation of minutes, agenda and annual reports
* Stationery
* Photocopying
* Postage
* Travel costs
* Telephone costs
* Accommodation lets
* Affiliation fees
* Subscriptions
* Bank charges
* Advertising
* General Publicity and promotional activities.
* Consultation with the community.

Community Councils may generate income from sources other than the local authority. This income may also be applied towards expenditure not contemplated by the grants awarded by the local authority. The accounts of the Community Council will however disclose all income from whatever source it is obtained and will show all expenditure even where it is not simply the expenditure of the local authority grants. Where an application is made to the local authority for grant assistance the whole financial circumstances of the Community Council will be considered to establish free and committed funds before the application for grant assistance is dealt with by the local authority.

### **Accounting Procedures – Cash**

* Each Community Council should have a physical or electronic record all income and expenditure. The date, description, amount and receipt number should also be recorded.
* The Community Council should nominate three unrelated office bearers to act as signatories to the Community Council bank accounts. All cheques and withdrawals should require two from three signatures. Any changes to authorised signatories should be approved by the Community Council. Where a Community Council uses online banking, it may not always be possible for two or three people to authorise payments, so permission should be noted alongside the record of the payment itself or in the minutes of the meeting where it was discussed and agreed.
* The level of cash held should not be excessive and should be in proportion to the monthly expenditure
* All income received should be banked and should not be used to directly meet expenditure. If funds are required for incurred expenditure they should either be paid by cheque, bank transfer or alternatively cash should be withdrawn from the bank.
* Once a banking has been made the stamped bank pay-in slip should be retained and checked against the bank statement or bank book to ensure that the income has been credited correctly. If using online banking, a screenshot of the payment or an electronic copy of the statement should be generated to act as a check and record.

### **Accounting Procedures – Expenditure**

* All expenditure must be approved and minuted in advance by the Community Council.
* All expenditure must be accompanied by proof of purchase, either an expenditure voucher or receipted invoice.
* Receipts should be given a sequential number and filed accordingly.
* Details of the expenditure should be recorded in the cash book as soon as the expenditure is incurred. Where a receipt is not available, the person making the purchase should complete a form stating the nature of the expenditure. The form should be authorised by a member of the Community Council committee.
* A current account will normally be used for day to day transactions with a further deposit and/or saving account, as required, so that interest may be attracted on accumulated funds.
* The treasurer should await the bank statements and once received should carry out a bank reconciliation to ensure that the bank balance agrees with the balance recorded in the cash book. All bank statements should be retained.
* Where petty cash is issued all petty cash vouchers should be signed by the person requesting the money and countersigned by the treasurer or other authorised signatory - this must not be the person who is requesting the expenditure. All receipts for items of expenditure should be retained and attached to the appropriate petty cash voucher.
* Reimbursement of travel expenses should only be available to persons on official Community Council business. Claimants should submit a detailed record of dates, times, destination, reason for travel and mode of transport. Reimbursement of travel expenses (for example bus, taxi, train, parking fees etc) should only be awarded if accompanied by an appropriate receipt.
* If the Community Council requires telephone calls to be made, reimbursement of expenses can be made at the discretion of the Community Council. The person making the claim should submit the itemised telephone statement highlighting the calls claimed. Reimbursement will be authorised by the Community Council.

### **Accounting Procedures - Annual Accounts**

The following paragraphs merely reinforce income and expenditure matters dealt with earlier in this guideline.

* An annual income and expenditure statement of all accounts including all income and expenditure must be prepared at the end of the Community Councils' financial year and must be examined by a person unconnected with the fund.
* The independently examined accounts must be presented to the Community Council and in course a copy passed to the local authority officer.
* An example of an annual income and expenditure statement is detailed in the attached appendix. All of the information within the account is fictitious and used only as a guide on how to prepare accounts.

### **Accounting Procedures – Inventory**

The Community Council must maintain an inventory detailing all the assets of the Community Council. The inventory should be updated on an ongoing basis for additions and deletions.

## ***Non-financial support from local authorities***

The amount of financial grant required by a Community Council will, to some extent, depend on what potential costs are met by the local authority directly.

Some of the following support resources may be supplied free to Community Councils by some local authorities. Where practicable Local Authorities are encouraged to provide adequate support to their Community Councils, but this may be done through the administration grant funding for the Community Council. This is not an exhaustive list, nor will all these services be provided by every local authority, but it gives some examples of the kind of support which may be available:

* Meeting space (in authority buildings, or if elsewhere paid by LA directly).
* Dedicated space on LA website
* Data protection costs
* Access to local project funding
* Community development staff employed by the local authority

## ***Consultation and decision making process***

### **Establishing a mechanism for feedback**

Civic engagement is central to modern democracy and as part of the civic engagement process. The Scottish Government, and other public bodies, should ensure that individual Community Councils are consulted directly at the earliest possible stage in the development of policy and the decision making process on local issues.

Any consultation document should include:-

* + an executive summary;
  + a clearly defined purpose leading to the consultation process;
  + clear objectives required from consultation process;
  + any document should be comprehensible, concise, jargon free and widely accessible;
  + specific questions in relation to the consultation exercise;
  + minimum response period of 12 weeks – longer if over a holiday period;
  + proposed timescale for outcomes; and
  + feedback options including a choice of preferred format.

Irrespective of whether formal or informal, once the consultation process has been completed, and the responses analysed, then a summary of the responses, including any resulting proposals for change or actions, should be made available in a variety of formats, such as:

* + - the organisation’s website;
    - in paper format as requested;
    - through face to face sessions;

At the onset of any consultation process, each organisation should ensure that the lead officer or staff member, responsible for the consultation exercise is also responsible for co-ordinating the dissemination of feedback information which should be made available in a range of appropriate formats. The feedback should provide an analysis of the responses received and an explanation on proposals for change in light of the consultation process. The outcome of consultation exercises should be made available by the consulting body.

There should be a resistance to publishing feedback as glossy brochures or the indiscriminate circulation of information in paper format. The analysed responses and proposals, which result from the consultation process, should be freely available.

The National Standards for Community Engagement set out good practice principles to help guide the process of good community engagement.

## ***Data protection***

### **Introduction**

The Data Protection Act 2018 (alongside UK GDPR) governs the use of personal data, which ensures the fair and proper use of people’s information and their right to privacy. It imposes important obligations on any persons or organisations, including Community Councils, which acquire, store, use or deal with personal data either electronically or within certain paper records. Whilst failure to comply with the Act’s requirements can have serious legal consequences, Community Councilors should be reassured that most breaches are likely to simply require remedial action to be undertaken and would not be deemed to be criminal offences. Good practice in data protection is vital to building public trust in the organisation.

### **Personal Data and Sensitive Personal Data**

* Special rules govern the processing of sensitive personal information.
* “Personal data” means any information by which it is possible to identify a living individual (referred to in the Act as a “data subject”). Information on individuals who have died is not personal data.
* “Sensitive personal data” means information regarding such things as an individual’s racial or ethnic origin, political or religious beliefs, physical or mental health and sexual life. This is Special Category data and requires additional protection under data protection law. Special rules apply to sensitive personal data and Community Councils should seek advice if they hold any sensitive personal data (other than that which is in the public domain such as the political affiliation of local elected members or the denominations of clergy).
* The Act regulates the processing of personal data. “Processing” means acquiring data, storing it, amending or augmenting it, disclosing it to third parties, deleting it – i.e. doing anything with it at all. A data controller is the organisation that determines the purpose, reason and means of processing data. The data controller has overall control and ownership of the data. Further information on processing personal data can be found on the ICO website <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/lawful-basis-for-processing/>.
* The Act applies to personal data which is held in any kind of storage system, whether electronic or manual.

### **The Data Protection Principles**

The Act sets out some basic rules regarding processing personal data, known as the Data Protection Principles. These are –

* + **Principle 1:** Data must be processed fairly, lawfully and transparent;
  + **Principle 2:** **Purpose Limitation** Data must be obtained for one or more specified and lawful purposes, and must not be processed in any manner incompatible with those purposes;
  + **Principle 3:** **Data Minimisation** - Data must be adequate, relevant and not excessive;
  + **Principle** **4:** **Accuracy** - Data must be accurate and kept up to date;
  + **Principle 5:** **Storage Limitation** - Data must not be kept longer than necessary;
  + **Principle 6: Accountability** - Data must be processed in accordance with the data subject’s rights;
  + **Principle 7:** **Integrity and Confidentiality** **(security)** - Appropriate technical and organisational measures must be taken against the data’s unauthorised or unlawful use and their accidental loss, damage or destruction.

### **Data Subjects’ Rights**

The Act gives important rights to data subjects, including the right –

* To be informed that their personal data is being processed by the data controller;
* To be given access to their personal data;
* To require their personal data not to be used for direct marketing purposes;
* To require the data controller to stop any processing of their personal data which is causing substantial and unwarranted damage or distress.

### **Contravention of the Act**

* Data breaches must be reported to the relevant supervisory authority (the Information Commissioner’s Office) within 72 hours of becoming aware of the breach. If the breach is high risk, affecting individual rights and freedoms then the individual must be informed immediately.
* A robust means of detecting breaches, with investigating and reporting procedures should be in place. All breaches should be recorded whether or not they need to be reported to the supervisory authority.
* Current offences include the unlawful obtaining, disclosing or selling of information, a failure to follow a Notice from the Commissioner and the failure to notify the Commissioner of processing which takes place. These offences are punishable by the payment of a fine.
* Compensation may be payable to any person who suffers damage and distress as a result of a contravention of the Act. Such compensation is awarded by the Court.

### **The Information Commissioner**

The role of the Information Commissioner is to uphold information rights in the public interest, and is located at Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF and applies throughout the UK. The Commissioner has powers under the Act to issue Notices to data controllers, requiring them to provide him with information regarding their compliance with the Act, or to carry out certain steps under the Act; as indicated above, failure to comply with a Notice is a criminal offence. He also has power to carry out investigations, including the power to enter data controllers’ premises.

The Commissioner publishes detailed guidance on various aspects of the Act on his website at [www.ico.gov.uk](http://www.ico.gov.uk/). Advice can also be obtained from the ICO’s Scottish office in Edinburgh at [Scotland@ico.gsi.gov.uk](mailto:Scotland@ico.gsi.gov.uk) or 0131 225 6341 (The Information Commissioner should not be confused with the Scottish Information Commissioner, who enforces the Freedom of Information (Scotland) Act 2002.)

### **Notification to the Information Commissioner**

All data controllers are obliged by the Act to notify the Information Commissioner of the classes of personal data which they are processing, the purposes for which they are processed and the recipients to which the data may be disclosed. Community Councils only need to notify if personal data are processed electronically. This information is included in the Commissioner’s Register of Notifications, which is open to public inspection. Unless within an exempt category, it is a criminal offence to process personal data without first notifying the Commissioner. It is likely that only a few Community Councils will be covered by an exemption.

### **Complying with the Data Protection Act**

Community Councils must comply with the Data Protection Act because they process personal data as defined under the Act. For example, it is likely that the Secretary of Community Councils will hold electronic records of contact details of its members, of some local residents and of elected members or employees of the local authority. These may be within databases, Minutes of meetings or in correspondence

In order to comply with the Act, Community Councils should take the following steps:

* Nominate someone (e.g. the Secretary) as the person responsible for data protection.
* If collecting personal data from individuals, you should explain the purpose for which the data is being collected as well as giving them the name of the Community Council and the name of the person nominated as being responsible for data protection.
* Ensure that personal data are properly protected – if data are stored electronically, ensure that they are password-protected and (in sensitive cases) encrypted. If they are stored manually (e.g. a paper filing system), ensure that the files are kept in a secure place.
* Ensure that personal data are never disclosed to any unauthorised third party, whether accidentally or on purpose. Do not discuss personal issues in public or leave papers or computer files unsecured at home.
* Periodically review the personal data that are held, making sure that they remain accurate and up to date – where necessary dispose of or shred data that are no longer needed.
* **Very important**: notify the Information Commissioner of the personal data which are being processing, the purposes for which they are processed and the recipients to which the data may be disclosed. It is a criminal offence to process personal data without having first notified the Commissioner.
* Before notifying, identify what personal data are held and who the data subjects are; ascertain the purposes for which the data are to be used; identify where and how the data are stored or recorded. This will assist in completing the notification template.
* Notification can be done online at the Commissioner’s website by going to:

<https://ico.org.uk/for-organisations/report-a-breach/personal-data-breach/#Online>

and then by following the step-by-step directions given there. The website includes standard templates for different types of organisations, including a set of local and central government templates; this includes, in turn, standard template N958 – Scottish Community Council. By clicking on that template, the standard classes and uses of personal data for Community Council are automatically included in the notification. Check the details and modify the form before printing it off, signing and posting to the Commissioner.

* Alternatively, a Community Council may send the required information, as shown below, to - [notification@ico.gov.uk](mailto:notification@ico.gov.uk), and ask for a template for a Scottish Community Council to be completed. The Information Commissioner’s Notification Department will then provide a draft for the Community Council to approve/amend as necessary.
* Community Councils can also phone the Information Commissioner’s Notification Helpline on **01625 545 740** and ask for a draft template for a Scottish Community Council to be completed. The required information (as shown below) should be given over the phone.

The information needed is as follows:

* Community Council name
* Community Council address
* Contact name and role in the Community Council (i.e. Chair/Secretary/Treasurer)
* Contact address
* Contact telephone number
* Contact fax (if available)
* Contact e-mail address

Notification currently costs £40 or £35 if you pay by direct debit and must be renewed annually.

This section is designed to provide only general information about data protection. If you have any specific queries regarding these issues, you should contact the relevant staff at your local authority for advice and guidance.

***Equality, diversity and community councils***

### **Introduction**

The purpose of this section is to ensure Community Councils are aware of the general responsibilities relating to Equality and Diversity and how they can play an important role in promoting and supporting equality in the community.

### **Public Sector Equality Duty**

Community Councils are subject to the Public Sector Equality Duty (PSED) under Section 149 (2) of the Equality Act 2010 which states *“A person who is not a public authority but who exercises public functions must, in the exercise of those functions, have due regard to the matters mentioned in subsection (1)”* which states:

A public authority must, in the exercise of its functions, have due regard to the need to:

* Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
* Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
* Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Section 149 of the Equality Act 2010 is available online: <https://www.legislation.gov.uk/ukpga/2010/15/section/149>

The PSED replaces the race, disability and gender equality duties. The PSED applies to the ‘relevant protected characteristics’ – age, disability, gender reassignment, pregnancy and maternity, race, religion and belief, sex and sexual orientation and, to a more limited extent, to the protected characteristic of marriage and civil partnership.

The Equality and Human Rights Commission (EHRC) are the enforcement body and it is their responsibility to provide guidance on the Equality Act 2010 and the PSED.

A link to their technical guidance on the PSED in Scotland is available online: <https://www.equalityhumanrights.com/en/publication-download/technical-guidance-public-sector-equality-duty-scotland>section

**How Community Councils can help promote equalities in their areas?**

* + find out about the makeup of the area – how many people of different races, with disabilities or of different genders live in the area.
  + make sure that any advertising is accessible to all, and that meetings take place in accessible buildings at times that suit everyone.
  + try to engage ‘hard-to reach’ groups – help to do this is available from your Community Council liaison officer or your local council for voluntary service.
  + run local events in partnership with local equality groups, e.g. ethnic groups, disability and other community groups.
  + always consult about how any plans would affect all members of the community,
  + act in an inclusive manner when inviting speakers from ethnic, disability and community groups to discuss difficulties they are experiencing in the community with the Community Council.
  + make it clear that the Community Council will not support any discrimination, harassment or victimisation.

## ***THE ROLE AND REMIT OF THE SCOTTISH AND UK PARLIAMENTS***

### **Background**

The Model Scheme for the Establishment of Community Councils specifies that Members of the Scottish and UK Parliaments are *ex-officio\** members of Community Councils within their constituency or region. Below is an outline of the roles and powers of the various Parliaments.

*\* Member generally taken to be a person, who, by virtue of an office or position held, is officially attached to a committee as a non-voting member*

### **The Scottish Parliament**

Scotland, Wales and Northern Ireland all held successful referendums on devolution in the late 1990s. In Scotland’s case, this led to the establishment of a separate Parliament following the passing of the Scotland Act 1998. The Scottish Parliament took responsibility for its devolved powers on 1 July 1999.

### **Devolved and reserved powers**

Devolved powers relate to policy areas which are under the remit of the Scottish Parliament, such as education and health. Reserved powers are those decisions that remain with the UK Parliament in Westminster. Which powers are devolved and which are reserved are determined by legislation. The Scotland Act 2016 devolved a range of further powers to the Scottish Parliament, including Income Tax, control over some existing benefits and the ability to create new welfare payments.

### **Scottish Parliament – devolved powers**

The role of the Scottish Parliament is to make laws in relation to devolved matters in Scotland. All matters that are not specifically reserved are devolved. Devolved matters over which the Scottish Parliament has legislative power include:

* Health
* Education and training
* Local government, social work and housing
* Economic development and transport
* Law and home affairs
* Income Tax and some welfare powers
* Environment
* Sport and the arts
* Agriculture, forestry and fishing

The Scottish Parliament is also able to examine devolved matters and debate a wide range of issues of interest and concern in Scotland, whether devolved or reserved.

### **The UK Parliament and reserved powers**

With the advent of the Scottish Parliament in 1999, the UK Parliament retained authority over those sections of legislation not devolved to the Scottish Parliament, the Northern Ireland Assembly, and the Welsh Assembly. In terms of Scotland, authority over the following areas are retained by Westminster:

* The constitution, which in the UK is a collection of documents, customs and practices which have evolved over centuries.
* Defence and national security
* Economy
* Trade and industry
* Transport (not devolved to Scotland) such as transport safety and regulation
* Social Security (responsibility for some benefits have now been devolved to the Scottish Parliament and are delivered by [Social Security Scotland](https://www.socialsecurity.gov.scot/benefits))
* TV and radio broadcasting
* Foreign affairs
* Immigration and nationality
* Energy policy