

EAST RENFREWSHIRE COUNCIL14 SEPTEMBER 2016Report by Deputy Chief ExecutiveCOMMUNITY COUNCILS – REQUESTS FOR AMENDMENTS TO CONSTITUTIONS**PURPOSE OF REPORT**

1. To consider requests from 2 community councils for amendments to their constitutions.

RECOMMENDATION

2. (a) that the Council consider the requests from the 2 community councils as follows:-

Busby Community Council

Amendment to Clause 9.3

Uplawmoor Community Council

Amendment to Clause 9.1

Amendment to Clause 16.2

(b) that it be noted that the requests from Uplawmoor Community Council to amend Clauses 9.2 and 13.1 of their Constitution cannot be considered for the following reasons

(i) Clause 9.2

The proposed amendment would conflict with Clause 9.1

(ii) Clause 13.1

The proposed amendment would conflict with the requirement in terms of Clause 3.8.2 of the Scheme of Establishment

(c) that in the event the Council approves any of the proposed amendments, and requests seeking similar alterations are received from other community councils in future, it be delegated to the Deputy Chief Executive and Head of Democratic and Partnership Services to approve those requests.

BACKGROUND

3. At the meeting of the Council on 24 June 2015 the new East Renfrewshire Scheme of Establishment for Community Councils was approved. The Model Constitution and Model Standing Orders were also approved at that time and were subsequently adopted by the new community councils

4. The Scheme of Establishment cannot be altered without a full public consultation on the Scheme taking place, however it is open to community councils to make a request to the Council to amend the Model Constitution and Standing Orders.

REPORT

5. Requests have been received from Busby Community Council and Uplawmoor Community Council to amend their constitutions. Details of the amendments that have been received are provided below with comments on each of the proposals.

Busby Community Council

6. Busby Community Council have asked for an amendment to Clause 9.3 of their constitution, relating to the term of office of the Chair.

7. The clause in its current form states:-

A member may not be appointed as Chair more than twice during a term of the COMMUNITY COUNCIL, nor be reappointed other than at the first AGM following an election, or at the AGM prior to an election. Without the express approval of East Renfrewshire Council, no one member shall hold more than one of the following offices at any one time: Chair, Secretary and Treasurer.

8. The community council have requested that the first sentence of the clause be deleted in its entirety leaving the clause to read:-

Without the express approval of East Renfrewshire Council, no one member shall hold more than one of the following offices at any one time: Chair, Secretary and Treasurer.

9. In support of their request, the community council refers to disruptive behaviour from the floor at other community council meetings. They suggest that only an experienced Chair would have the expertise to handle such situations, and that this experience and expertise could not be acquired during 9 short meetings per year which is the timetable to which the community council works at present.

Comment

10. In summary the community council are seeking the removal on the restriction of the term of office of the Chair, and the Council needs to decide whether or not to it would be prepared to agree to the request.

Uplawmoor Community Council

11. Uplawmoor Community Council have requested a number of changes to their Constitution. The changes sought relate to Clauses 9.1, 9.2, 13.1 and 16.2

Clause 9.1

12. Clause 9.1 in its current form states:-

At the first meeting of the COMMUNITY COUNCIL after an election, and at the Annual General Meeting in April each year, the COMMUNITY COUNCIL shall appoint a Chair, Secretary, Treasurer and other such office bearers as it shall from time to time decide.

13. The community council have requested that after “a Chair” there be inserted the words “Vice-Chair”

Comment

14. The clause already permits the appointment of a Vice-Chair without the need for any amendment. To amend the clause as suggested would place greater restrictions on the community council as they would be required to appoint a Vice-Chair, whilst under the terms of the current wording the appointment of a Vice-Chair is optional.

Clause 9.2

15. Clause 9.2 in its current form states:-

All office bearers shall be elected for one year terms, other than at the first meeting of the COMMUNITY COUNCIL after an election, when they shall be elected to serve until the first AGM, and at the AGM prior to an election, when they shall be elected to serve until the dissolution of the COMMUNITY COUNCIL in advance of that election. Subject to clause 9.3, office-bearers shall be eligible for re-election without limitation of time.

16. The community council have requested the deletion of the entire clause to be replaced with:-

All office bearers shall hold office for the term of that council subject to any provisions for recall.

17. In support of their request, the community council states that it is important that office bearers are given sufficient time to develop the requisite skills and knowledge and it is not reasonable that they should hold office for such a short period contrasting with other administrative offices such as ERC elected councillors.

Comment

18. The proposals put forward suggest that office bearers should serve for the lifetime of the community council. This conflicts with the requirements of both existing Clause 9.1, and the amended Clause 9.1 as proposed by the community council, where in both cases office bearers are elected at each AGM.

19. If the community council is keen that office bearers develop experience it is open to the community council to reappoint office bearers at the AGM, other than the position of Chair, which term of office is restricted and is set out in Clause 9.3. To allow the Chair to be appointed on the same basis as other office bearers, it is open to the community council to make a request for a change to Clause 9.3, similar to the amendment requested by Busby Community Council.

Clause 13.1

20. Clause 13.1 in its current form states:-

East Renfrewshire Council's Liaison Officer shall be sent an annual calendar of the COMMUNITY COUNCIL'S prescribed meeting dates, times and venues (which should be agreed at the COMMUNITY COUNCIL'S annual general meeting), minutes of all meetings (including draft minutes), the annual report, the annual financial statement and any other such suitable information, as may from time to time be agreed between the COMMUNITY COUNCIL and East Renfrewshire Council. When special meetings of the COMMUNITY COUNCIL are to be held, East Renfrewshire Council's Liaison Officer should be advised of the date, time, venue and subject(s) of debate of such meetings, at least 10 days in advance of the meeting date.

21. The community council have requested the deletion of the word "draft" before "minutes" in line 4 above.

22. In support of their request the community council states that there is no reasonable ground for sending draft minutes to the Council's Liaison Officer.

Comment

23. Clause 3.8.2 of the Scheme of Establishment requires community councils not later than 5 days prior to a community council meeting, to circulate the agenda for the meeting, including the draft minute of the previous meeting, to community council members, the Council, ex-officio members, and other parties having an interest in the matters discussed.

24. Amending the constitution in accordance with the request would be contrary to the requirements of the Scheme. As the Scheme cannot be amended without undertaking a full public consultation exercise the request cannot be approved.

25. It is believed that the main issue here relates to copies of draft minutes being submitted soon after a meeting takes place. These are only requested by the Council as a courtesy, and early sight of draft minutes is a means to allow relevant officers within the Council to be alerted to issues/matters of interest that have been discussed at community council meetings.

26. If the community council choose not to submit draft Minutes until required to do so in terms of Clause 3.8.2 of the Scheme of Establishment that is a matter for them, but they must be made aware of the impact this may have on the Council's ability to respond to issues that have arisen at meetings.

Clause 16.2

27. Clause 16.2 in its current form states:-

If the proposal is supported by two-thirds of the total voting membership of the COMMUNITY COUNCIL, and is approved in writing by East Renfrewshire Council, the alteration shall be deemed to have been duly authorised and shall come into effect as of the date of East Renfrewshire Council's approval.

28. The community council have requested the deletion of the clause in its entirety stating that the community council should be free to amend its constitution without authorisation from East Renfrewshire Council.

Comment

29. The Council wants to allow community councils to be as autonomous as possible, and for them to develop to reflect local circumstances. However, an element of overall consistency in the operation of community councils needs to remain, primarily in relation to the obligations placed on community councils in terms of the Scheme of Establishment. As can be seen, one of the requested alterations would lead to a situation where the community council was in breach of terms of the Scheme of Establishment. Requiring approval from the Council for changes to constitutions provides a measure of support and ensures that community councils do not inadvertently breach the Scheme.

CONCLUSION

30. In summary, other than the request from Uplawmoor Community Council to amend Clause 13.1 of their Constitution which cannot be considered as it is contrary to the requirements of the Scheme of Establishment, and their request to amend Clause 9.2 which cannot be considered as it conflicts with both existing and proposed Clause 9.1, the remaining proposed amendments could be made without the need for amendments to the Scheme of Establishment. That said, any proposed alterations may not contradict, prejudice or undermine the terms and objectives contained within the Scheme and must not negatively impact on the transparency and accountability of the community council.

RECOMMENDATION

31. (a) that the Council consider the requests from the 2 community councils as follows:-

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Uplawmoor Community Council

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Amendment to Clause 16.2

- (b) that it be noted that the requests from Uplawmoor Community Council to amend Clauses 9.2 and 13.1 of their Constitution cannot be considered for the following reasons
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The proposed amendment would conflict with Clause 9.1
 - (ii) Clause 13.1
The proposed amendment would conflict with the requirement in terms of Clause 3.8.2 of the Scheme of Establishment
- (c) that in the event the Council approves any of the proposed amendments, and requests seeking similar alterations are received from other community councils in future, it be delegated to the Deputy Chief Executive and Head of Democratic and Partnership Services to approve those requests.

Report Author

Eamonn Daly, Democratic Services Manager

0141 577 3023

eamonn.daly@eastwreshire.gov.uk