

Appendix 4: Item 7:Housekeeping items

All these items have been provided to the New Council by the Area Governance Officer for Argyll and Bute Council

At the Inaugural meeting of the Community Council on 15th May 2018 we adopted the Model Constitution and the Model Standing Orders (Items 9 and 10 on the Agenda of the Inaugural meeting). These will be posted on our website.

Items a and b refer to the Scheme for the Establishment of Community Councils.

Item a is an expansion of Item 4b on page 21 of the Model Standing Orders

Item b is a rewrite of section 13

Items c and d are concerned with the new General Data Protection Regulations. There are sections to be completed in both. We are encouraged to agree to these or make minor changes to suit our own needs. I have modified the latter to take account of the fact that MailChimp data is stored on servers in the USA.

a: Declaration of Interest Policy Pg 2

b: Model Complaints Procedure Pg 4

c: Draft Register of Processing Pg 6

d: Draft Privacy Notice Pg 7

Argyll and Bute have also produced a [Community Council Online Handbook](#)

a: Declarations of Interest Policy

As the first item on the Agenda of every Community Council meeting, Councillors are required to declare if they have an interest in any item on the agenda.

An item could also come up during the course of the meeting, for example during *Any Other Business* or *Public Discussion*, and a councillor should declare an interest at that time if appropriate.

Interests can be financial or non-financial, and financial interest may be direct or indirect.

Direct Financial Interests

All direct financial interests will automatically exclude a Councillor from the determining process for that matter, i.e. the debate among the councillors and the subsequent vote.

Examples of Financial Interest include

- a builder tendering for or intending to tender for a contract to build a house that is the subject of a Planning Application
- A Planning Application referring to a councillor's own property
- A Planning Application referring to an immediate neighbour's property

In these instances a councillor is automatically excluded from taking part in the determining process. However he may address the Council from the floor as a member of the public before leaving.

Indirect Financial Interests

An Indirect Financial Interest will not automatically exclude a councillor from taking part in the determining process, but will be subject to the process detailed below

An example of an Indirect Financial Interest includes

- A Planning Application by a spouse, civil partner or co-habitee, close relative, employer or business partner.

Non- Financial interests

A Non -Financial Interest will not automatically exclude a councillor from taking part in the determining process, but will be subject to the process detailed below

An example of a Non Financial Interest includes

- A Planning Application by an organisation or committee of which a Councillor was a member or a volunteer.

PROCESS TO BE FOLLOWED IN THE EVENT OF AN INDIRECT FINANCIAL, OR NON FINANCIAL INTEREST BEING DECLARED

Indirect Financial Interests and Non Financial Interests, if known to the councillor, must always be declared, no matter how remote or insignificant they might seem to them.

Having declared an Indirect Financial Interest or a Non Financial Interest, the remaining Councillors must vote on whether the Councillor should take part in the determining process. If the Community Council believes that the interest is so remote or insignificant that they should be allowed to participate in the determining process, then the reasons for reaching such a view will be recorded in the minutes. Unless that is the view then the Councillor should leave the room during the determining process. However, as with a direct financial interest, they should be allowed to address the council from the floor before leaving.

In determining the treatment of either an Indirect Financial Interest or a Non Financial Interest the Councillors should take into consideration how their taking part in the determining process would be viewed by the community, and how it would reflect on the reputation of the Community Council. They should apply the following test to their consideration, that whether a member of the public, with knowledge of all the relevant facts, would reasonably regard the interest as so significant that it would be likely to affect the councillor's judgement and prejudice their discussion or decision making.

In all instances the process and decision should be carefully minuted.

b:Model complaints procedure for Community Councils

What is a complaint?

Complaints made to a community council are likely to be in relation to action or lack of action taken by a community council collectively; procedural issues such as a departure from standing orders and/or constitution; or else could relate to the conduct of community councillors. It is important that the Community Council have an agreed procedure in place to deal with complaints as the Scheme requires all complaints to be dealt with by the community council in the first instance, except where:

1. The complaint concerns the conduct of the community council as a whole, or the conduct of half or more of the community council members;
2. Three or more complaints have previously been received about a particular community council member, or from a particular individual, during a single community council term; or
3. The complaint concerns the response of the community council to a previous complaint.

Where a complaint relates to any of those 3 conditions are met then the community council must refer the complaint to the Community Council Liaison Officer who will arrange for a Conduct Review Panel to be convened. The community council should advise the complainant accordingly.

While each community council is free to adopt their own tailored complaints procedure, it is important that any procedure adopted consists, at the very least, of the following steps:-

1. Acknowledge the complaint and intimate to complainant when and where they can expect their complaint to be discussed (except in the circumstances outlined above which may require a Complaints Review Panel to be convened)
2. Place copy of the complaint on the agenda for the next scheduled meeting.
3. The terms of the complaint should be discussed in full and in public and the community council will, by simple majority of persons present and voting (noting that the subject(s) of a the complaint or the complainer, shall not be entitled to vote) either:
 - (a) Determine that the complaint is viewed as vexatious or the subject of the complaint is substantially identical to that of a previous complaint that has been, or is being dealt with by either the community council or the Conduct Review Panel, in which case they may decide (by simple majority of persons present and voting) that they need not consider the substance of the complaint, nor refer a complaint to the Conduct Review Panel; or
 - (b) Determine (by simple majority of persons present and voting) that there is no deemed breach of the Scheme for the Establishment of Community Councils, the constitution and standing orders (as may be amended from time to time) and the code of Conduct for Community Councillors; or
 - (c) Determine (by simple majority of members present and voting) that the subject of the complaint has, on the balance of probabilities, failed (on one or more grounds of the complaint) to comply with the obligations in terms of the Scheme for the

Establishment of Community Councils, the constitution and standing orders (as may be amended from time to time) and the code of Conduct for Community Councillors.

4. There should be provision in place to allow for voting on the complaint by way of secret ballot if this is requested by the complainant or the subject(s) of the complaint.
5. In the case of 3(a) above, the community council must either:
 - (a) censure the member(s) in question;
 - (b) issue a formal written warning to the member(s) in question;
 - (c) suspend the member(s) from the community council for up to 3 months; or
 - (d) where it is considered the sanctions above would be inappropriate or insufficient, refer the complaint to the Community Council Liaison Officer who will establish a Conduct Review Panel in terms of paragraph 13.7 of the Scheme for the Establishment of Community Councils.
6. Irrespective of whether or not the complaint was present at the meeting, written confirmation regarding the outcome of the meeting should be sent to the complainant setting out what decision has been reached, any changes in procedure agreed as a consequence of the complaint and if appropriate an apology. The written confirmation should also set out that should the complainant or subject of complaint remain dissatisfied by the course of action taken by the community council, they have the right to raise a new complaint to the Community Council Liaison Officer, Kilmory, Lochgilphead, PA31 8RT, who will, upon receipt, establish a Conduct Review Panel. Where this relates to a sanction which has been applied, the sanction shall be suspended pending the Panel's determination.

Key principles when attending to complaints:-

1. All community councillors should be familiar with the complaints procedure on the basis that any community councillor could potentially receive a complaint (particularly important if there is an issue with conduct of one or more individuals). If the complaint is about an office bearer, it would be beneficial to have an agreement that the person who is in receipt of the complaint be the person whose name is included on correspondence from the community council in regard to the complaint.
2. All complaints should be acted upon immediately – consider whether it might be necessary to set out an agreed timeframe for acknowledging the complaint within your procedure.
3. Complaints should be dealt with at the next scheduled meeting and the complainant kept properly informed.
4. Responses must address **all** issues raised by the complainant.
5. The complainant must be advised of the action taken to resolve the complaint and any changes in procedures to be adopted as a direct result of the complaint.
6. If a complaint is upheld or partially upheld then the response **must** contain an apology.
7. The response must inform the complainant and subject(s) of the complaint of how they might proceed if they remain dissatisfied with way in which the complaint has been resolved.

c: Rhu and Shandon Community Council - Register of processing - Data Protection

Data controller	
Contact details	
Contact name (nominated contact for data protection)	
Position	
Email	
Telephone	

Purpose of processing personal data:	To carry out the functions of a Community Council, in order to represent the views of the community to public authorities
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Describe what personal data is held, and who it relates to	Basic personal data is held in relation to individuals who make contact with the Community Council about relevant activities or issues. This includes names and contact details, and where grant applications are made, may include personal bank details <i>Add detail here as appropriate</i>
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Is the personal data shared with any third parties? If so, please provide details and consider whether a data sharing agreement may be required	
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Lawful basis for processing personal data	Article 6(1)(f) - legitimate interests
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Checks:

<i>Retention and disposal - ensure personal data is disposed of appropriately at the end of retention periods</i>
<i>Ensure appropriate security measures are in place to protect data (i.e. if a personal computer is used, passwords are in place, antivirus etc)</i>
<i>Ensure you are aware of individuals rights (access to their own information, rectification of incorrect information) and how to comply</i>
<i>Know what to do if a data breach occurs</i>

d: PRIVACY NOTICE

Your Personal Data

What information do we need?

Rhu and Shandon Community Council will act as the 'Data Controller' in regard to the personal data you provide to us. The nominated Data Protection Liaison is ***** and can be contacted as follows:

Address: *****

Email: *****

Telephone: *****

Unless specifically agreed with you, we will only collect personal data about you which does not include any *special categories* of personal information about you (also known as '*sensitive personal data*'). The information will include details such as your name, address, e-mail address (if applicable) and telephone/mobile number(s).

Why we need this information?

Your information is being collected to allow * Community Council to make contact with you regarding matters which you may raise with us that may require action on our behalf and a subsequent response, or to keep you apprised of matters being discussed and/or progressed by * Community Council on behalf of the community.

We need to know this basic personal data in order to perform our statutory role as outlined below. The Community Council are also required to keep the community informed of their work and decision. If you do not provide this information then we will be unable to provide those services to you. We will not collect any personal data from you that isn't needed for delivery of those services.

The lawful basis for collecting your information in these circumstances is:

Public task: *As set out in the Local Government (Scotland) Act 1973, local authorities, following public consultation, are required to establish community councils who will have a general purpose to "Ascertain, co-ordinate and express to the local authorities for its area, and to public authorities, the views of the community which it represents, in relation to matters for which those authorities are responsible, and to take such action in the interests of that community as appears to it to be expedient and practicable"*

What we will do with your information?

While you remain a member of our community we will maintain a contact database/distribute list which may include your name and address, telephone and email contact details. We will use contact details provided to respond to you; distribute our meeting agendae, minutes and general

information relevant to our community or regarding the operation of the community council. On occasions we may contact you by telephone to discuss any issues brought to our attention.

You should also be aware that your data will either be stored on servers located within the United Kingdom. or the United States. In the latter case they are covered by the Privacy Shield Framework which provides for the lawful receipt of EU data. We will take all reasonable steps to ensure that your data is kept secure and more information on how we do this can be provided by contacting the Data Protection Liaison (contact details can be found above).

How long will we keep your information?

We will keep your information for the length of time you have an interest in our community, after which it will be destroyed under secure arrangements. More information on our retention policy can be obtained from the Data Protection Liaison (contact details can be found above).

Automated Decision Making

No automated decision making will take place

Your Rights

When you provide information to the * Community Council, you will have the following rights:

- to withdraw consent at any time, where the legal basis specified above is consent
- to lodge a complaint with the Information Commissioner's Office (see details below)
- to request access to your personal data
- to data portability, where the Legal basis specified above is i) consent or ii) performance of a contract
- to request rectification or erasure of your personal data, as far as the legislation permits

To find out further details about any of these rights, please contact the Data Protection Liaison.

Information Commissioner's Office

The ICO is the UK's independent body set up to uphold information rights.

Information Commissioner's Office

Wycliffe House, Water Lane, Wilmslow, Cheshire

SK9 5AF Telephone: 0303 123 1113 Email: casework@ico.org.uk

The Information Commissioner's Office – Scotland

45 Melville Street, Edinburgh, EH3 7HL

Telephone: 0303 123 1115 Email: Scotland@ico.org.uk