

EAST RENFREWSHIRE COUNCIL26 OCTOBER 2022Report by Director of Business Operation and PartnershipsNETHERLEE AND STAMPERLAND COMMUNITY COUNCIL– REQUEST FOR
AMENDMENTS TO CONSTITUTION**PURPOSE OF REPORT**

1. To consider a request from Netherlee and Stamperland Community Council for amendments to the community council's constitution.

RECOMMENDATION

2. That the Council:-
- (a) considers whether to approve the addition of a new Clause 13A and sub-clauses 13A.1 and 13A.2 to the Netherlee and Stamperland Community Council Constitution;
 - (b) notes that the addition of sub-clauses 13A.3 and 13A.4 cannot be considered as they contradict the procedures as set out in Clause 12 of the Scheme of Establishment; and
 - (c) agrees that in the event the Council receive any requests to amend community council constitutions in future which cannot be approved as the proposed alteration contradicts, prejudices or undermines the terms contained within the Scheme, it be delegated to the Director of Business Operations and Partnerships and Head of HR & Corporate Services to refuse such 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. The Model Constitution was subsequently adopted by Netherlee and Stamperland Community Council following its establishment in 2021.

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. 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.

REPORT

5. A request has been received from Netherlee and Stamperland Community Council for an alteration to their constitution. The community council are seeking the insertion of an additional clause, Clause 13A and sub-clauses 13A.1 to 13A.4, in the following terms:-

13A Principles, Behaviour and Procedures for Breach

13A.1 The COMMUNITY COUNCIL shall uphold principles of non-discrimination, equality and fairness.

13A.2 The COMMUNITY COUNCIL shall display zero tolerance of bullying, harassment, discrimination or threatening or intimidating behaviour by members of the COMMUNITY COUNCIL.

13A.3 A member's membership may be terminated with immediate effect following a majority vote in favour of their removal from the COMMUNITY COUNCIL (a motion having been proposed and seconded by members in accordance with the normal voting rules), if by majority vote, the COMMUNITY COUNCIL has found that the member has committed any of the categories of behaviour listed in 13A.2. Any such termination must be confirmed in writing as soon as possible by the COMMUNITY COUNCIL to the member whose membership has been terminated.

13A.4 Any member whose membership is terminated in accordance with 13A.3 shall have a right to appeal against that decision to East Renfrewshire Council. A member wishing to exercise this right of appeal shall do so by written request to East Renfrewshire Council's Liaison Officer.

6. In support of their request, the community council have referred to recent events leading to the suspension of a member of the community council.

Comment

7. Whilst the Scheme of Establishment is silent on those issues referred to in the proposed additional sub-clauses 13A.1 and 13A.2, the Code of Conduct sets out the obligations placed on community councillors in relation to their behaviour. In particular, the section of the Code on Respect states:-

You must respect fellow members of your community council and those that you represent, treating them with courtesy, respect and in a non-discriminatory manner at all times. This should extend to any person, regardless of their position, you have dealings with in your capacity as a community council member.

Recognition should be given to the contribution of everyone participating in the work of the community council. You must comply with Equal Opportunities legislation and ensure that equality of opportunity be given to every participant to have their knowledge, opinion, skill and experience taken into account.

You should ensure that confidential material, including details about individuals, is treated as such and that it is handled with dignity and discretion and is not used for personal, malicious or corrupt purposes.

You must not misuse the Code for personal gain, political advantage or for the purposes of making complaints.

8. It can be seen therefore that that the additional sub-clauses 13A.1 and 13A.2 are compatible with the Code and therefore the Scheme. The Council could therefore if it chooses to do so, agree to the inclusion of the 2 additional sub-clauses in the Constitution.

9. In relation to the proposed sub-clauses 13A.3 and 13A.4, Clause 12 of the Scheme of Establishment contains specific provisions relating to the conduct of community councillors, how complaints should be dealt with and the sanctions that can be imposed. As the requested additional sub-clauses 13A.3 and 13A.4 are not compatible with the provisions as set out in the Scheme, and the Scheme cannot be altered without full public consultation, they cannot be considered.

Future arrangements for dealing with requests

10. The Council has already granted delegated powers to officers to deal with any future requests from community councils for alterations to their constitution, as long as the request is for a change which is the same as one which has already been approved by the Council. As the request from Netherlee and Stamperland Community Council did not fall into this category it was necessary for the request to be presented to Elected members. However as explained above it is not possible for part of the request from the community council to be considered as the requested change contradicts the provisions contained in the Scheme of Establishment. To remove the need for requests of this nature to be presented to Elected Members regardless of the fact that they cannot be approved, it is proposed that delegated powers be granted to the Director of Business Operations and Partnerships and the Head of HR & Corporate Services to refuse requests where the proposed amendment contradicts, prejudices or undermines the terms and objectives contained within the Scheme of Establishment.

CONCLUSION

11. The community council have requested amendments to their constitution in response to recent events which led to the suspension of an existing community councillor. Whilst the Clause 13A and sub-clauses 13A.1 and 13A.2 are compatible with the Scheme of Establishment sub-clauses 13A.3 and 13A.4 are not and therefore cannot be considered.

RECOMMENDATION

12. That the Council:-

- (a) considers whether to approve the addition of a new Clause 13A and sub-clauses 13A.1 and 13A.2 to the Netherlee and Stamperland Community Council Constitution;
- (b) notes that the addition of sub-clauses 13A.3 and 13A.4 cannot be considered as they contradict the procedures as set out in Clause 12 of the Scheme of Establishment; and
- (c) agrees that in the event the Council receive any requests to amend community council constitutions in future which cannot be approved as the proposed alteration contradicts, prejudices or undermines the terms contained within the Scheme, it be delegated to the Director of Business Operations and Partnerships and Head of HR & Corporate Services to refuse such requests.

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