



DRAFT

DRAFT Scheme of Electoral Arrangements for Community Councils 2021-2025

Document Version	1.4
Document Status	DRAFT
Document Date	31 May 2021
Review Date	November 2024

Contents

1. Returning Officer	3
2. Election Frequency & Timetable	3
3. Requirement of Secrecy	5
4. Electoral Registration and the Electoral Register	5
5. Publicity, Awareness & Guidance	5
6. Notices	6
7. Eligibility and Nominations	7
8. Candidates' Personal Statements	8
9. Unsuccessful Elections	9
10. Contested Elections & Uncontested Elections	10
11. Interim Election Arrangements	10
12. The Poll & Ballot Papers	11
13. Counting of Votes	12
14. Rejected Ballot Papers	12
15. Equality of Votes	13
16. Declaration of Results	13
17. Post Election	13

DRAFT

1. Returning Officer

- 1.1. The Local Authority will administer all Community Council elections.
- 1.2. The Returning Officer for Community Council elections will be the Returning Officer as appointed by the Local Authority under the Representation of the People Act 1983 (s.41).
- 1.3. The Returning Officer will have power to appoint such staff including a depute with the some or all of the same powers, as they consider necessary and appropriate to assist them in the conduct of their duties.
- 1.4. The Returning Officer, or appointed depute, will be responsible for the resolution of any dispute arising from the election process, and their decision is final.
- 1.5. It is the responsibility of the Returning Officer for the conduct of the election, the production of the relevant notices and nomination forms, decision on the validity of nominated candidates, the printing of the ballot papers, the issue and receipt of ballot papers for eligible electorate entitled to vote, the counting of the votes cast and the declaration of the result(s).
- 1.6. Nothing in paragraph 1.5 precludes the Returning Officer from outsourcing printing or other functions related to the delivery of the election.
- 1.7. It is the Returning Officer's general duty to do all such acts and things as may be necessary for conducting the election in the manner provided by these rules.
- 1.8. The Returning Officer may take such steps as they think appropriate to remedy any act or omission which arises in connection with any function the Returning Officer, or relevant person has in relation to the election, and is not in accordance with the rules or any other requirements applicable to the election. Any action or steps taken will not invalidate the poll.

2. Election Frequency & Timetable

- 2.1. Normal elections will be held every four years on dates to be set by the Returning Officer.
- 2.2. Interim elections may be held during the mid-term of the Community Councils on dates to be set by the Returning Officer, if appropriate.
- 2.3. Unless the election is otherwise scheduled, at the end of each term, the Returning Officer will make arrangements to conduct any by-election within twelve weeks;
 - on the dissolution of a Community Council under the relevant section of the Scheme of Establishment of Community Councilsor

- for a unestablished Community Council, on receipt of a request from 20 electors to the Community Council to make arrangements for the establishment of a Community Council under the terms of section 52(7) of the Local Government (Scotland) Act 1973.

2.4. In computing any period of time for the purposes of the timetable:-

- a Saturday or Sunday;
- a day which is a bank holiday in Scotland under the banking and Financial Dealings Act 1971(a);
- a day appointed for public thanksgiving or mourning, shall be disregarded, and any such day shall not be treated as a day for the purpose of any proceedings up to the completion of the poll.

2.5. The proceedings at the election will be conducted in accordance with the following timetable of events:-

Event	Date	Minimum working days
Publication of Notice of Election	Not later than 8 weeks after the notification of requirement to conduct a poll and no less than 7 weeks prior to the poll	-35
Submission of nominations to Returning Officer	Between 10am – 4pm any weekday the day after the date of publication of the Notice of Election	-34
Final date for the submission of nominations and accompanying candidates personal statements to Returning Officer	Not later than 4pm on the twenty-third day before the date of any contested poll	-23
Final date for the withdrawal of candidate nomination	Not later than 4pm on the twenty-third day before the date of any contested poll	-23
Publication of notice of uncontested elections	Not later than the twenty-second day before any contested poll	-22
Publication of Notice of Poll for contested areas	Not later than the twenty-second day before any contested poll	-22
Dispatch of the postal votes for electors in contested areas	Not later than the eleventh day before any contested poll	-11
Last time to apply for a replacement for a spoilt or lost postal vote	Not later than 4pm on the day of poll	0
Deadline for return of votes	POLLING DAY	0
Counting of votes cast and declaration of results	Within five days from the day after the close of poll	+5

- 2.6. The Returning Officer reserves the right to vary the election timetable, in the interests of the voter to take account of local or national circumstances or restrictions, public holidays, events or other polls in order to facilitate the election effectively.
- 2.7. Where the Returning Officer requires to vary the election timetable prior proceedings commencing, advance notice shall be given to the Community Council(s) effected by the modification.

3. Requirement of Secrecy

- 3.1. All persons involved in the election, including candidates are required to maintain and aid in maintaining the secrecy of voting.
- 3.2. No person shall interfere with or attempt to interfere with a voter when the voter is recording their vote.
- 3.3. No person shall communicate at any time to any person any information obtained as to the candidate or candidates for whom a voter is about to vote for or has voted for.
- 3.4. No person shall communicate to any person at any time any information obtained as to the number or other unique identifying mark on the back of any ballot paper sent or issued to any person.

4. Electoral Registration and the Electoral Register

- 4.1. An Electoral Register will be prepared for each Community Council area based on the current Electoral Register for local government elections.
- 4.2. Only those persons whose names appear on the Community Council Electoral Register current for the month prior to the election will be eligible to vote in that election.
- 4.3. There shall be no provision for overseas voters, proxy voters, postal proxy or emergency proxy voters during community council elections.

5. Publicity, Awareness & Guidance

- 5.1. Information regarding the Community Council election will be available on the Moray Council website and by other appropriate means as determined and approved by the Returning Officer.

- 5.2. Guidance and information about the election and the nomination process will be provided to current Community Councils to disseminate amongst their members and the wider community in their area.
- 5.3. The Returning Officer or the local authority will not be responsible for promoting any candidate for election, or any expenses, fees or charges incurred by the candidate or anyone acting on their behalf.

6. Notices

- 6.1. The Returning Officer will publish notices on the Council website or such additional methods as the Returning Officer may think appropriate, including publication in a newspaper or posting on notice boards at council premises and in the area of the community council and by other means as determined and approved by the Returning Officer

- 6.2. Notice of Election

The Returning Officer shall publish a notice advising that an election for the community council will take place and inviting nominations.

The Notice of Election shall state:

- (1) the number of members to be elected to the community council;
- (2) the place and time for the lodging of nominations;
- (3) the qualification to stand as a candidate or to propose or second a nomination;
- (4) that if the number of candidates exceeds the number of places to be filled, a poll will be held on a particular date; and
- (5) indicate the arrangements for the registration of the electors for that election.

- 6.3. Notice of Failure to Establish a Community Council

In the event the number of candidates validly nominated is less than minimum membership, the Returning Officer shall publish a Notice of Failure to Establish a Community Council.

The Notice of Failure to Establish a community council shall state:

- (1) the number of Candidates validly nominated, being less than the minimum membership of the community council, no community council shall be established.

- 6.4. Notice of Uncontested Election

In the event the number of candidates validly nominated exceeds the minimum number of places to be filled, but is less than or equal to maximum number of members, the Returning Officer shall publish a Notice of Uncontested Election.

The Notice of Uncontested Election shall

- (1) list the candidates in alphabetical order of surname and;
- (2) state that the number of candidates validly nominated and declare those candidates to be elected on the date of the election.

6.5. Notice of Poll

In the event the number of candidates validly nominated exceeds the maximum membership, the Returning Officer shall publish a Notice of Poll.

The Notice of Poll shall:

- (1) list the Candidates in alphabetical order of surname;
- (2) specify the date and hours of the Poll;
- (3) specify the location of the polling station and;
- (4) state the method(s) of voting.

7. Eligibility and Nominations

7.1. A person shall be eligible to stand for election to a Community Council:

- if they are 16 years old or over;
- and reside within the community council area;
- and are named on the electoral register for the area for which they are nominated.

7.2. Any individual who is elected to serve on Moray Council, or a person appointed to a committee of Moray Council in terms of Section 57 of the Local Government (Scotland) Act 1973 or a person who is elected to serve on the United Kingdom or Scottish Parliaments shall be ineligible to stand for election or co-option to a Community Council.

7.3. A nomination form must be completed, the style of which will be determined by the Returning Officer immediately prior to the current election.

7.4. Each candidate will submit a separate nomination form as provided by the election office and must be lodged as a signed hard copy or by signed scanned email copy to a nominated email address to, the Returning Officer, no later than the time and final date for submission of nominations, as specified in section 2 above.

7.5. The nomination form must be signed by the candidate and include:-

- the full name and address of the candidate,
- the name which the candidate wishes to appear on the ballot paper if different from the full name.

7.6. Nominations require to be submitted with the candidate's consent. No proposers or seconder's are required by the candidate's consent must be witnessed by someone 16 or over.

7.7. Completed nomination forms must not be handled by any other person other than the candidate and must be sent or submitted to the Returning Officer and not to the Community Council to which the candidate is seeking nomination.

- 7.8. Only one valid nomination paper can be submitted per candidate and the candidate may only stand in respect of one vacancy in one Community Council area or sub-division thereof. Where more than one nomination form is submitted, the first valid nomination form received will be accepted and all others will be disregarded.
- 7.9. It is the candidate's responsibility to ensure that a valid nomination form is received within the time limit, no responsibility will be taken for items lost or delayed by any courier or postal service or email or internet provider or packets or envelopes submitted to any council office that do not have clear indication of the addressee, contents or their urgency.
- 7.10. No nomination forms submitted after the deadline date stated in the election timetable will be accepted.
- 7.11. The Returning Officer shall, as soon as practicable after the delivery of the nomination paper, send by post or email a notice in writing of the decision that a nomination form is valid or invalid to each candidate at the candidate's home address as given in the nomination form. If the nomination is submitted within 2 working days prior to the close of nomination then the acknowledgement will be sent with the notice detailed in paragraph 7.14.
- 7.12. The Returning Officer will be entitled to hold a nomination form invalid if it does not comply with the requirements of this section.
- 7.13. The Returning Officer's decision regarding a nomination form's validity shall be final.
- 7.14. At close of nominations, the Returning Officer will advise all candidates of the nominations lodged within their area in writing or by email as soon as practicable, and whether or not the election will proceed to a poll.
- 7.15. A candidate may only withdraw their candidature by a signed notice of withdrawal and delivered by hard copy or by email to the Returning Officer at the place for the submission of nomination forms, not later than the time and final date for the withdrawal of nominations, as specified in the published election timetable. Paragraph 7.9 will apply to the notice of withdrawal in the same way it applies to the nomination form.

8. Candidates' Personal Statements

- 8.1. All candidates are invited to submit a written personal statement of not more than 100 words in support of their candidacy. This must be lodged with the Returning Officer, no later than the time and date for submission of candidates' personal statements along with their nomination form, as specified in the published election timetable.

- 8.2. No pictures, photographs diagrams or logos may be incorporated into the personal statement.
- 8.3. All material contained in the personal statements will be the sole responsibility of the individual candidate and neither the Returning Officer nor Moray Council will be responsible for the content.
- 8.4. It will be the responsibility of the candidate to ensure that their personal statement does not contain any material which is party political, obscene, defamatory or otherwise likely to cause offence.
- 8.5. Any candidate personal statements submitted which are greater than the word limit stipulated, will be contacted by the Elections Office and invited to amend, if no amendment is submitted the statement will be truncated to the maximum limit.
- 8.6. The Returning Officer, after consultation with the candidate when available, may amend candidate statements to ensure the personal statement submitted does not breach these rules.
- 8.7. In the event that there is a contested election in a community council area or sub-division thereof, copies of all the submitted candidate's personal statements will be made available to electors within their postal voting packs and published on the Moray Council website as soon as is practicable when ballot papers are due to be issued for the election.
- 8.8. The Returning Officer reserves the right to refrain from publishing any personal statement which is in breach of these rules.

9. Unsuccessful Elections

- 9.1. Where the total number of valid nominations for election to any Community Council received by the Returning Officer is less than the minimum permitted membership, as specified for the area, no Community Council will be established at that time.
- 9.2. If the election is unsuccessful, this does not prevent a request from 20 electors or more with reference to Section 2 of the Moray Scheme for the Establishment of Community Councils.
- 9.3. The Returning Officer will not consider a request under 9.2 until a period of at least 12 months from close of any previous poll.
- 9.4. After an ordinary election of Community Councils, no more than one election will be held in any 12 month period, whether due to vacancies or from a lack of members appointed at an election, subject to the discretion of the Returning Officer.

10. Contested Elections & Uncontested Elections

- 10.1. In Community Council areas that are subdivided, if, after the expiry time for the withdrawal of nominations;
 - 10.1.1. the number of candidates in any sub-division(s) of the Community Council exceeds the prescribed number of seats for that sub-division but the total number of candidates is less than the total membership then the community council will be declared as uncontested.
 - 10.1.2. the number of candidates in any sub-division(s) of the Community Council exceeds the prescribed number of seats in that sub-division and the total number of candidates in the Community Council exceeds the total membership then a ballot shall proceed and the respective sub-divisions of the community council will be declared as contested.
- 10.2. In Community Council areas that are not sub-divided if, after the expiry time for the withdrawal of nominations;
 - 10.2.1. the number of candidates remaining validly nominated exceeds the total maximum permitted membership as specified for the area, arrangements for a poll shall be implemented and the Community Council will be contested.
 - 10.2.2. the number of candidates remaining validly nominated is equal or exceeds the minimum specified membership , but is less than or equal to the total maximum permitted membership as specified for the Community Council, the candidates will be declared as elected.
- 10.3. The Returning Officer will communicate the outcome of the nomination process to candidates via email and/or post as soon as practicable.

11. Interim Election Arrangements

- 11.1. During an interim election any current vacancies on any of the Community Councils will be advertised by the Returning Officer in a Notice of Election and will be subject to the nomination and election process as detailed previously. The vacancies will not be open to co-option during the election period.
- 11.2. All current co-opted members of the community council, subject to interim election, will be invited to submit nominations to become full members.
- 11.3. All current full members of the Community Council and current Community Council business will be unaffected unless the Community Council is held in abeyance and cannot form a quorum.

12. The Poll & Ballot Papers

- 12.1. The poll will be conducted by secret ballot of local electors in the contested Community Council area or sub-division.
- 12.2. The poll will be conducted by a method determined by the Moray Council, in agreement with the Returning Officer and may take the form of online or postal voting, or in-person or a combination of these.
- 12.3. Where applicable, full details of the electoral arrangements will be contained in the Notice of Poll.
- 12.4. There will be no provision for the issue of poll cards in the event of a postal ballot or overseas, proxy, postal proxy or emergency proxy votes.
- 12.5. Ballot papers will be set in the standard format as used for other major elections with the appropriate security marking and unique identifying number and;
 - will contain the names of the candidates as shown on their nomination form
 - will be arranged alphabetically in order of their surnames,
 - where there are two or more candidates with the same surname, the candidates will be arranged alphabetically in respect of their other names.
- 12.6. Each voter will be entitled to cast a number of votes up to the number of prescribed vacancies for election, but will not give more than one vote to any one candidate and will not give an order of preference among candidates (although the recording of preferences would not in itself spoil an otherwise valid ballot paper).
- 12.7. A voter who has inadvertently dealt with a ballot paper in such manner that it cannot be used as a ballot paper may, on contacting the Returning Officer or their representative, within the deadlines in the election timetable, and proving to their satisfaction the fact of the inadvertence, obtain another ballot paper in the place of the ballot paper previously delivered and the spoiled ballot paper shall be immediately cancelled.
- 12.8. Where a postal voter claims either to have lost, or not to have received their postal ballot paper, by the fourth day before the day of the poll, the voter may apply to the Returning Officer by the date and time stipulated on the election timetable for a replacement ballot paper. Such an application shall include evidence of the voter's identity. Where a postal voter exercises this entitlement any ballot paper previously issued shall immediately be cancelled by the Returning Officer.
- 12.9. In the event that a candidate dies, the poll will proceed at the discretion of the Returning Officer. This will not apply if on the death of a candidate the total number of candidates does not exceed the maximum permitted members within the Community Council area as the poll will become an uncontested election.

13. Counting of Votes

- 13.1. The Returning Officer will make arrangements for the counting of votes and will notify the candidates of the time and place at which the count will commence.
- 13.2. No person other than:-
- the Returning Officer and their appointed staff;
 - the candidates; or
 - any person representing a candidate who is not present by prior arrangement, may attend the counting of votes, unless expressly permitted by the Returning Officer.
- 13.3. All persons that attend the count are bound by the Requirements of Secrecy noted in Section 3.
- 13.4. Candidates shall be elected on a simple majority basis. The result will be determined by counting the votes given to each candidate and the candidates with the highest number of votes, equal to the number of prescribed vacancies, will be declared to have been elected.
- 13.5. A candidate or their representative may, if present when the counting of the votes is completed, request the Returning Officer to have the votes re-counted, but the Returning Officer may refuse to do so if in their opinion the request is unreasonable.

14. Rejected Ballot Papers

- 14.1. A ballot paper on which the vote(s) is/are marked:-
- elsewhere than in the proper place;
 - otherwise than by means of a cross;
 - or where the voter has indicated an order of preference, **will not for such reason alone** be deemed to be null and void.
- 14.2. Any ballot paper:-
- on which votes are given for more candidates than the prescribed number of vacancies;
 - on which anything is written or marked by which the voter can be identified;
 - which is want of an official mark; or
 - which is unmarked or null and void for uncertainty will not be counted.
- 14.3. The decision of the Returning Officer on any question arising in respect of a ballot paper will be final.

15. Equality of Votes

- 15.1. Where, after the counting of votes (including any re-count) is completed, an equality of votes is found to exist between any candidates and the addition of a vote would entitle any of those candidates to be declared elected, the Returning Officer will decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote.

16. Declaration of Results

- 16.1. In a contested election, when the result of the poll has been determined, the Returning Officer will declare the candidates receiving the highest number of votes, equal to the number of available vacancies, to be elected.
- 16.2. In an uncontested election, following the expiry of time for the withdrawal of nominations, the Returning Officer will declare the candidates remaining validly nominated to be elected.
- 16.3. As soon as practicable after declaration, the Returning Officer will give publish the results by displaying a notice to that effect in appropriate public office(s) and on the Council website and the candidates, being either successful or unsuccessful, will be informed as soon as practicable, about the outcome of the poll.

17. Post Election

- 17.1. On completion of the election, whether unsuccessful, uncontested or contested, all nomination forms and ballot papers will be sealed within packets endorsing on each packet a description of its contents, the date of the election to which they relate and the name of the community council area for which the election was held.
- 17.2. The Returning Officer shall then forward to the proper officer of the Council for the packets of ballot papers and nomination papers in the Returning Officer's possession.
- 17.3. No person shall be allowed to inspect any rejected or counted ballot papers, or open any sealed packet in the possession of the proper officer of the Council.
- 17.4. The proper officer of the council shall retain amongst the election records of the council, for one year, all documents mentioned within this section.
- 17.5. The election records will only be available to the Returning Officer or appointed representative, if, following the election there is any accusation of misconduct or fraud which requires investigation.

- 17.6. Following investigation, the Returning Officer may determine that the contest for one or all the community council areas or subdivision was null and void and make declaration to this effect.
- 17.7. The Returning Officer may require the election or part of the election for the area determined to be rerun within 6 months, as circumstances allow.

DRAFT