

Scottish Borders Code of Governance

Interim Scheme of Administration

Openness
Accountability
Responsiveness
Democracy

Scottish Borders Council
25 May 2017

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SECTION I

GENERAL Purpose

1. This Scheme of Administration:-
 - (a) regulates the constitution and membership of the Committees of the Council;
 - (b) the allocation of the functions of the Committees of the Council; and
 - (c) the delegation to Committees of authority to exercise the functions of the Council.

Amendment

2. This Scheme may be amended at any time by the Council by decision of a simple majority, or, for more minor changes arising from a decision of the Council or the Executive, by the Clerk to the Council in accordance with the Scheme of Delegation.

Interpretation

3. In this Scheme the following expressions have the following meanings assigned to them:

"Act" in relation to the functions of the Council means an Act of Parliament or any amendment or variation of such, including Regulations made under an Act.

"The Local Government Acts" means the Local Government (Scotland) Act 1973, the Local Government etc (Scotland) Act 1994, and any other relevant statute relating to committees

"Area" in relation to the geographical area of jurisdiction of the Council shall be the Scottish Borders as defined in column 1 of Part 1 of Schedule 1 to the Local Government etc. (Scotland) Act 1994.

"Council" means the Scottish Borders Council.

"Committee", also relates to Boards, and where the context permits, includes any Sub-Committee of that Committee.

"Convener" means the Civic Head of the Council appointed by the Council.

"Vice-Convener" means the Depute Civic Head of the Council appointed by the Council.

"Co-opted Member" means any member of a Committee who is not an Elected Member.

"Chief Executive" means the Chief Executive appointed by the Council.

"Assessor" means the Assessor appointed by the Council as valuation authority under Section 27(2) of the Local Government etc. (Scotland) Act 1994, except in Section XV (Local Review Body) where its meaning is taken from the Planning etc. (Scotland) Act 2006.

"Elected Member" or "Member" means a Councillor elected to the Council in terms of Chapter 1 of Part 1 of the Local Government etc (Scotland) Act 1994, as amended.

“Leader” means the Leader for the time being of the Council.

“Administration” in relation to the membership of the Council and Committees means the ruling group formed by an alliance of the majority of Members on the Council.

“Opposition” in relation to the membership of the Council and Committees means the registered group formed by an alliance of Members out-with the ruling group on the Council.

Committees, etc.

4. Subject to the provisions of the Local Government etc. (Scotland) Act 1994 and any other relevant statutes, the Council shall appoint and maintain the following Committees, and Sub-Committees:

Council Sub-Committees

Duns Common Good Fund
Galashiels Common Good Fund
Hawick Common Good Fund
Jedburgh Common Good Fund
Kelso Common Good Fund
Lauder Common Good Fund
Peebles Common Good Fund
Selkirk Common Good Fund
William Hill Trust
Charitable Trusts -
 Berwickshire
 Cheviot
 Eildon
 Teviot & Liddesdale
 Tweeddale
LLP Strategic Governance Group

Executive Committee

Trading Operations Sub-Committee
Education Performance Sub-Committee

Scrutiny Committee

Audit and Scrutiny Committee

Civic Government Licensing Committee

Pension Fund Committee

Pension Fund Investment and Performance Sub-Committee

Planning and Building Standards Committee

Local Review Body

Petitions and Deputations Committee

Joint Consultative Group – Staff

Joint Consultative Group – Teachers

Employee Council

Appointment Committee

Standards Committee

Staffing Appeals Committee

Education Appeals Committee

Members Sounding Board: Political Management Arrangements

Ward Project Advisory Groups

Police, Fire & Rescue, and Safer Communities Board

Community Planning Strategic Board

Locality Committees

Berwickshire Locality Committee
Cheviot Locality Committee
Eildon Locality Committee
Teviot & Liddesdale Locality Committee
Tweeddale Locality Committee

5. Under The Licensing (Scotland) Act 2005, the Council shall also appoint a **Scottish Borders Licensing Board**.
6. Under the Public Bodies (Joint Working)(Scotland) Act 2014, the Council shall also appoint members to the Scottish Borders Health & Social Care Integration Joint Board.
7. The respective Committees, etc., of the Council shall have the Constitution, Quorum, Terms of Reference and Delegated Powers, as detailed in the appropriate Section of this Scheme.
8. The Council may from time to time appoint such other Committees, Sub-Committees, etc., and/or Working Parties with such Constitution, Quorum, Terms of Reference and Delegated Powers as the Council may decide.
9. The Minutes of a meeting of a Sub-Committee will be submitted for approval as a correct record and signed by the person chairing the next meeting of the Sub-Committee and will be circulated to the next meeting of the parent Committee for approval of any recommendations.
10. The Minutes of parent Committees will be submitted for approval as a correct record and signed by the person chairing the next meeting of the Committee and will be circulated to the next meeting of the Council for approval of any recommendations.

Call-In Procedure

11. Any report being considered by the Executive Committee will include a statement from the Clerk to the Council if it is to be exempt from the Call-In procedure, giving the reasons for the exemption. This exemption is subject to the Executive Committee approving the recommendations as detailed in the report. Should the Executive Committee amend the recommendations contained in any report then the Clerk to the Council will require to review the exemption or non-exemption status of the report accordingly.
11. A decision of the Executive Committee can be called-in for review by the Audit and Scrutiny Committee in the following way subject to the terms detailed in (a) to (f) below:
 - (i) the Clerk to the Council must be informed, in writing, of the request;
 - (ii) the request must be made before 5 p.m. on the fourth working day following the Executive meeting, whether the Minute of that meeting has been issued or not; and

- (iii) at least five named members of the Council must subscribe to the request.

(a) Decisions Not Subject to Call-in

Certain types of decision are exempted from Call-in and these are:

- (i) matters which require formal ratification by the full Council, such as the setting of the level of Council Tax;
- (ii) decisions taken under emergency powers;
- (iii) decisions where a delay would prejudice the best interests of the Council – for example if:
 - (1) the decision is a formal response by the Council which has to be given within a prescribed deadline;
 - (2) immediate action is needed in order to avoid possible legal proceedings against the Council; or where a delay would involve a breach of law (such as where a statutory or contractual timescale would be infringed by a delay);
 - (3) deferral of an immediate implementation of the decision could result in financial detriment to the Council. If financial detriment is cited as a reason for refusal, then details of the actual costs and their composition will be included in the explanation.

(b) Terms for Calling-in Items

- (i) Requests for a call-in must contain a clear and specific reason for wishing the decision to be reviewed.
- (ii) It is acceptable for requests to be submitted to the Clerk to the Council by e-mail provided that an individual e-mail is received from each of the members identified as subscribing to the request giving their own individual endorsement to this.
- (iii) One of the five signatories to the request must be identified as the “lead member” for the purpose of processing the matter. The request will therefore need to stipulate which of the five wishes to be the designated “lead member”.

(c) Timescale for Reviewing Decisions Called-in

It is important to ensure that Scrutiny has sufficient time to review a decision, whilst at the same time avoiding undue delay to the decision-making process of the Council. To this end, the Audit and Scrutiny Committee will review a decision called-in at the first available meeting or at a specially convened meeting after the due notice of call-in has been received by the Clerk to the Council and will provide a report for the meeting of the Executive immediately following. Where the Audit and Scrutiny Committee is, for some reason, unable to provide a response within this timescale, it will notify the Executive Committee accordingly,

together with the reason why it has been unable to complete its review, and advise of the expected completion date. Should any such delay lead to the best interests of the Council being prejudiced then the call-in will fall.

(d) Procedure for Reviewing Items Called-in

In order to carry out a review of decisions called-in, the Audit and Scrutiny Committee will require to interview Executive Committee members and/or officials. Where this is the case, and in order to ensure that all such interviews are fair and productive, it is suggested that to help provide information relating to the matter under review, the person or persons who are to be asked to attend the meeting will:

- (i) be given prior notice of this; and
- (ii) be provided with an indication of the nature of the issue under consideration or of the questions likely to be asked.

In terms of officials asked to attend, the procedure for the Audit and Scrutiny Committee will be to ask the relevant Director who will either attend in person or will nominate an appropriate representative. The designated "lead member" for the request (if he/she is not already a member of the Audit and Scrutiny Committee) will be extended the opportunity of attending the meeting of the Audit and Scrutiny Committee where the matter is to be discussed in order to explain in more detail the reasons for calling-in the decision.

(e) Procedure for Audit and Scrutiny Committee Recommendations being considered by the Executive Committee

Once the Audit and Scrutiny Committee has considered a Call-in and come to a conclusion, the Chairman of the Audit and Scrutiny Committee (or his representative) and the Lead Member of the Call-in, are required to attend the Executive Committee meeting where any Audit and Scrutiny Committee recommendations are being considered, to introduce the findings/recommendations of the Audit and Scrutiny Committee.

(f) Procedure in the Event of Continuing Differences between the Executive and Audit and Scrutiny Committees

If agreement cannot be reached between the Executive Committee and the Audit and Scrutiny Committee on the matter called in, then the matter will be referred to the full Council for a final resolution of the matter.

SECTION II

PROVISIONS APPLICABLE TO ALL COMMITTEES

Referred Functions

1. Subject to the provisions of the Local Government (Scotland) Act 1973 and the Local Government etc. (Scotland) Act 1994 and any other relevant statutes, and subject also to the provisions of the Council's Standing Orders, where any function of the Council is referred to a Committee, the Committee shall not have the power to exercise the function in like manner as the Council, but the Committee shall consider any matter relating to that function and report to the Council or Committee as the case may be and any recommendation by the Committee on any such matter shall be subject to the approval of the Council, or of any Committee to which that function may have been delegated.
2. There shall be excluded from reference to any Committee the following:
 - (a) any matter specifically referred to another Committee;
 - (b) any matter which the Council may decide is specifically excluded from reference to the Committee.
3. Notwithstanding the reference to one Committee of any class of functions, the Council shall have power to refer any one of those functions on any particular occasion specifically to another Committee when by reason of the nature of the matter and in the opinion of the Council, it should be so referred.
4. Where any question arises out of or in connection with the functions referred to two or more Committees, these Committees shall confer together and give all necessary assistance before reporting to the Council either jointly or separately.
5. In the event of any difference arising between two or more Committees, the matter shall be determined by the Council after receiving reports on the matter from each Committee concerned.

Delegated Functions

6. Subject to the provisions of the Local Government Acts and any other relevant statutes and subject also to the provisions of the Council's Standing Orders, where any function of the Council is delegated to a Committee (or Sub-Committee), that body shall have the power to exercise the function in like manner in all respects as the Council could have exercised it had there been no delegation; provided, however, that it shall be competent for such Committee (or Sub-Committee) in relation to any delegated matter, instead of taking a decision on the matter, to make a recommendation on the matter to the Council or Committee as the case may be, in which event the matter shall be decided by the Council or Committee as the case may be after consideration of that recommendation. Any recommendation which requires a final decision by full Council shall be identified in the Minute of the Committee marking the recommendation with an asterisk*, and any recommendation which requires a final decision by the Executive Committee shall be identified in the Minute of the Committee marking the recommendation with a hash#.

General

7. Subject to the provisions of the Local Government Acts and any other relevant statutes:
 - (a) Each Committee shall give effect to any instruction of the Council.
 - (b) The Council may at any time if they so determine deal with any matter included in the reference or delegation to a Committee although no report from such Committee is before them.
 - (c) The Council may, at any time, by decision recorded in the Minutes of the Council, vary, add to or restrict any reference or delegation to any Committee or Working Group.
 - (d) A Committee may at any time if they so determine deal with any matter included in the reference or delegation to a Working Group of that Committee although no report from such Working Group is before it.
8. The Council shall appoint all members of Committees and Sub-Committees unless otherwise provided in this Scheme. The appropriate Committee shall appoint all members of its Working Groups unless otherwise provided in this Scheme. The term of office of members of Committees shall be as decided by the Council. The Leader of the Council shall be entitled, in addition to their membership of the Executive Committee, to attend and speak at any Committee, Sub-Committee or Working Group of the Council – except Planning and Building Standards Committee, Licensing Board, and Civic Government Licensing Committee - but shall not be entitled to vote at these bodies unless as a duly appointed member of that body.
9. For the purpose of awarding Members' Allowances, including payments to Senior Councillors, and for the purpose of appointment of Members to Committees, the Council will apply the Local Governance (Scotland) Act 2004 (Remuneration) Regulations 2007, the Local Government (Allowances and Expenses) (Scotland) Regulations 2007 and the Local Governance (Scotland) Act 2004 (Allowances and Expenses) Regulations 2007, and any subsequent variation or amendment thereto. The Council shall only recognise a political group, its Leader, Depute Leader (where specified by any political group), and the membership of any political group, where appropriate notice is delivered to the Council's Chief Executive or Proper Officer.

Furthermore, the Council shall take account of the preferred nominations submitted by the various groups, by notice signed by the Leader or Depute Leader of the group concerned and delivered to the Chief Executive or other authorised officer, in the selection of persons to be appointed as members of Committees, always however within the overall number of members of each group entitled by the Council to have membership of each Committee. The Council will also take account of any subsequent variation in the preferred nomination or nominations submitted by any group, by notice signed and delivered as aforesaid, in relation to the membership of any Committee, always subject to the same consideration as immediately before specified.
10. Casual vacancies in the membership of any Committee, however arising, shall be filled as soon as reasonably possible, taking account of Clause 10 of Section II of this Scheme, and the term of office of members so appointed to fill casual vacancies shall be as decided by the Council; provided that in the event of a

casual vacancy arising within the period of three months immediately preceding the next ordinary statutory election of councillors, the Council in the case of a vacancy in the membership of a Committee may decide that the vacancy shall remain unfilled for the remainder of that period.

11. The Council shall appoint the Chairman and Vice-Chairman (if required) of each Committee (other than the Licensing Board), and unless otherwise specified in this Scheme, the persons appointed shall be Elected Members. Each Committee shall appoint the Chairman of any Working Group of that Committee and the person appointed shall already be a member of that Committee.
12. A Committee may delegate to an Officer of the Council, or to an Officer or Officers in consultation with an Elected Member or Members as appropriate, authority to undertake or discharge any function which is delegated to that Committee or Sub-Committee. Authority may not be delegated to an individual Councillor or Councillors unless as members of a particular Committee or Sub-Committee meeting formally.
13. An Elected Member may take part in the proceedings of, speak and vote (if appointed as a voting member) at any Committee (or Working Group) of which he or she is a member. An Elected Member may attend the proceedings of a Committee of which he or she is not a member but may not take part or vote and may only speak if, following a prior request to the Chairman, he or she is invited to address the Committee on the matter under consideration. Such a request may be granted where a specific Ward issue is involved, or otherwise in exceptional circumstances, at the Chairman's discretion.

A Co-opted Member may only attend, take part in, speak (and vote if the appointment is as a voting-member) at a meeting of a Committee of which he or she is a member.

14. Committee meetings are open for members of the public to attend except to the extent that they are excluded under Section 50(A)(2) and (4) of the Local Government (Scotland) Act 1973. Members of the public may not take part in Committee meetings and may only speak if, following a prior request to the Chairman, he or she is invited to address the Committee on the matter under consideration. The Chairman shall have sole discretion on whether to invite members of the public to address the Committee. No such right to speak will be granted where Committees are considering planning or licensing applications, other than under the public speaking protocols covering Planning and Building Standards Committee and Local Review Body or when a Licensing Hearing has been convened.

Items for Agendas and Reports to Committees

15. Only those reports which require a decision to be taken by a Committee of the Council, or are necessary to enable the Committee to discharge its business or exercise its statutory or monitoring role, will normally be included on the agenda of any Committee. It shall be delegated to the Chief Executive or the Clerk to the Council to make the final determination, in consultation with the Convener or appropriate Chairman, on whether or not an item of business should be included on an agenda. Any reports or other documents which are

for information only will be included in an Information Bulletin prepared by the Clerk to the Council for issue to all Members of the Council on a regular basis.

SECTION III SCOTTISH BORDERS COUNCIL

Constitution

All 34 Elected Members.

Chairman

The Convener shall be Chairman of the Council and the Vice-Convener Vice-Chairman.

Quorum

- (a) The complete number of Council members is thirty four. Subject to Standing Order No. 18, no business shall be transacted at a meeting of the Council unless at least one-fourth (i.e. nine members) of the complete number of Council members are present.
- (b) Where there are vacancies of more than one-third of the Council members (i.e. more than 12 members), then the quorum of the Council is determined as follows:-
- Until the number of members in office is increased to not less than two-thirds (i.e. 24 members) of the complete number of Council members, the quorum of the Council shall be determined by the actual number of Council members, instead of the complete number of Council members. The quorum, however, shall never be less than one-eighth (i.e. five members) of the complete number of members of the Council.

Decisions Excluded from Delegation to any Committee by Statute

1. The raising of money by Rates, Council Tax or borrowing.
2. The approval annually of the Revenue Financial Plan and the setting of the level of Council Tax for any year.
3. The approval annually of the Capital Financial Plan.
4. The approval annually of the Council's and Pension Fund's statutory accounts.
5. The approval annually of the Council's treasury management policy and strategy.
6. The approval of any new policies and strategies.
7. Approve the Community Plan.
8. Except as provided for in this Scheme of Administration, Financial Regulations, Scheme of Delegation and Standing Orders approved by the Council, in respect of the matters referred to the Committee:
 - (i) the incurring of any net new expenditure not provided for in the estimates of Capital or Revenue expenditure unless and until such expenditure is reported to and approved by the Council;
 - (ii) the amendment of the Financial Regulations for regulating the Council's financial procedures;

- (iii) the amendment of this Scheme of Administration regulating the constitution, membership, functions and powers of Committees of the Council;
 - (iv) the preparation, review and amendment of the Standing Orders for regulating the proceedings and business of the Council and Committees
 - (v) the preparation, review and amendment of the Scheme of Delegation detailing those functions delegated by the Council to its officers.
9. The making of an order for the compulsory acquisition of any land or buildings.
 10. Other than to a Committee specially appointed for the purpose, the appointment of the Chief Executive and the dismissal of the Chief Executive, the Assessor or any Director.
 11. All matters relating to elections of Councillors.
 12. Matters relating to any alteration in the boundaries of the area or electoral wards and the number of Councillors.
 13. The appointment of representatives of the Council on outside bodies.
 14. The decision to co-operate or combine with other local authorities in the provision of services, other than decisions relating to any arrangements under which the Council's Trading Organisations may co-operate or combine with other contracting units in the provision of services.
 15. The preparation and review of the Scheme for Community Councils and carrying out those powers and duties relative to facilitating and co-ordinating the Council's relationship with Community Councils.
 16. Consideration of Provisional Orders or Private Bills affecting the interests of the Council and approval of the terms of any Provisional Order or Private Bill to be promoted by the Council.
 17. Approval of the Strategic and Local Development Plans.
 18. The consideration of planning applications in respect of National Developments and Major developments which are significantly contrary to the local development plan as defined within Section 38A(1) of the Town and Country Planning Act (Scotland) Act 1997.
 19. The conducting of Pre-determination Hearings to consider representations from applicants and other interested parties in respect of National Developments and Major developments which are significantly contrary to the local development plan as defined within Section 38A(1) of the Town and Country Planning Act (Scotland) Act 1997.

Other Functions

20. Approve items of expenditure for any Common Good Fund of a value greater than £20,000.

21. Determine any matters affecting Common Good Funds, other than those delegated to Common Good Fund Sub-Committees.
22. Review the annual performance of investments and monitor the Charitable Trusts.
23. Ensure appropriate investment Management arrangements are in place for the monies invested by the Charitable Trust Funds.
24. Review the Common Good and Trust Fund Investment Strategy and ensure that it continues to meet the needs of the Charitable Trusts.
25. Approve items of expenditure for any Charitable Trust of a value greater than the delegated limit to the Charitable Trusts Sub-Committees.
26. Consult such other parties as the Council considers appropriate prior to decision making, including Community Councils.
27. Determine any matters affecting the Charitable Trusts, other than those delegated to Charitable Trusts Sub-Committees.
28. Determine, if required, any matter referred or delegated to any other Committee.
29. Approve the change of status, or closure, of any school. [*Note: Where a recommendation has not been received from the Executive Committee, the religious/teacher/parent council representatives on the Executive Committee shall be given the opportunity to contribute to the debate.*]

(COUNCIL SUB-COMMITTEES)

COMMON GOOD FUND SUB-COMMITTEES

Constitution

- (a) For each Common Good Fund Sub-Committee, the elected Scottish Borders Councillors representing the Ward(s) of:
For **Duns** - Mid Berwickshire
For **Galashiels** – Galashiels and District
For **Hawick** – Hawick and Denholm; Hawick and Hermitage
For **Innerleithen** – Tweeddale East
For **Jedburgh** – Jedburgh and District
For **Kelso** – Kelso and District
For **Lauder** – Leaderdale and Melrose
For **Peebles** – Tweeddale East; Tweeddale West
For **Selkirk** - Selkirkshire
- (b) For each of the Common Good Fund Sub-Committee, a member of the following local Community Council(s) as a non-voting member:
For **Duns** – Duns Community Council
For **Galashiels** – Galashiels Community Council
For **Hawick** – Burnfoot Community Council; Hawick Community Council
For **Jedburgh** – Jedburgh Community Council
For **Kelso** – Kelso Community Council
For **Lauder** – Lauderdale Community Council
For **Peebles** – Peebles Community Council
For **Selkirk** – Selkirk Community Council

Quorum

- (a) Two Scottish Borders Councillors, in relation to the Common Good Fund Sub-Committees of **Duns, Galashiels, Innerleithen, Jedburgh, Kelso, Lauder** and **Selkirk**.
- (b) Three Scottish Borders Councillors, with at least one from each Ward, in relation to the Common Good Fund Sub-Committees of **Hawick** and **Peebles**.

Chairman of each Sub-Committee

The Chairman of each Sub-Committee shall be a Scottish Borders Councillor.

Functions Referred

The following functions of the Council shall stand referred to each Sub-Committee:

1. The routine administration of the Common Good Fund.
2. Award of grants or loans of up to £20,000.
- *3. Make recommendations to Council in respect of grants or loans or major items of expenditure above £20,000.

4. Approve terms for hires, wayleaves, leases etc., and the sale or purchase of land and property up to a value of £20,000.
- *5. Make recommendations to Council in relation to the sale or lease or purchase of Common Good land or property of a value greater than £20,000.
6. Hold an annual meeting to consider:
 - (i) a budget for the year ahead;
 - (ii) a report reviewing the performance of investments and approval for the amount of funds to be invested, as per the Corporate Investment Policy;
 - (iii) a report on the factorage of property, as appropriate;and otherwise to hold meetings on an ad hoc basis to deal with business as it arises.
7. Approve the amount of funds to be invested each year, as per the Corporate Investment Policy.
8. Consult such other parties as the Sub-Committee considers appropriate prior to decision making.
9. Ensure the implementation of decisions affecting the Common Good Fund and monitor their impact on the Common Good Fund.
10. Grant and confer Burgess Tickets (Lauder Common Good Fund only).

Functions Delegated

All functions above NOT marked *. Those functions marked * are referred to the Sub-Committee for consideration and recommendation only and must receive approval of Council.

(COUNCIL SUB-COMMITTEES)

WILLIAM HILL TRUST SUB-COMMITTEE

Constitution

- (a) The three elected Scottish Borders Councillors representing the Ward of Leaderdale and Melrose.
- (b) A member of Melrose Community Council as a non-voting member.

Chairman

The Chairman shall be a Scottish Borders Councillor.

Quorum

Two Scottish Borders Councillors.

Functions Referred

The following functions of the Council shall stand referred to the Sub-Committee:

1. The routine administration of the Trust Fund.
2. Award of grants or loans of up to £20,000 from the Trust Fund.
- *3. Make recommendations to Council in respect of grants or loans or major items of expenditure above £20,000.
4. Approve terms for hires, wayleaves, leases etc., and the sale or purchase of land and property up to a value of £20,000.
- *5. Make recommendations to Council in relation to the sale or lease or purchase of Trust Fund land or property of a value greater than £20,000.
6. Hold an annual meeting to consider a budget and to hear reports reviewing the performance of investments and on the factorage of property and otherwise to hold meetings on an ad hoc basis to deal with business as it arises.
7. Consult such other parties as the Sub-Committee considers appropriate prior to decision making, including Community Councils.
8. Ensure the implementation of decisions affecting the Trust Fund and monitor their impact on the Trust Fund.

Functions Delegated

All functions above NOT marked *. Those functions marked * are referred to the Sub-Committee for consideration and recommendation only and must receive approval of Council.

(COUNCIL SUB-COMMITTEES)

CHARITABLE TRUSTS SUB-COMMITTEES

The Charitable Trusts that come under the remit of each Sub-Committee are SBC Welfare Trust, SBC Community Enhancement Trust, SBC Education Trust and the Ormiston Trust.

Constitution

For each Charitable Trusts Sub-Committee, the elected Scottish Borders Councillors representing the Ward(s) of:

For **Berwickshire Area** - Mid and East Berwickshire

For **Cheviot Area** - Jedburgh and District; Kelso and District

For **Eildon Area** - Leaderdale and Melrose, Galashiels and District, Selkirkshire

For **Teviot & Liddesdale Area**- Hawick and Denholm; Hawick and Hermitage

For **Tweeddale Area**- Tweeddale East; Tweeddale West

Quorum

Three of the Scottish Borders Council Members of each Area Charitable Trusts Sub-Committee, including at least one representative from each Ward, shall constitute a quorum, except for the Eildon Area where five shall constitute a Quorum.

Chairman of each Sub-Committee

The Chairman of each Sub-Committee shall be a Scottish Borders Councillor.

Functions Referred

The following functions of the Scottish Borders Council Charitable Trusts shall stand referred to each Sub-Committee:

1. Consider the budget for the year ahead and otherwise hold meetings on an ad hoc basis to deal with business as it arises.
2. Agree the award criteria, within the scope of the charitable and geographical restrictions of the Trust, for awards to individuals or families for the delegated officer to work within.
3. Award grants of up to £500 from one of the Charitable Trusts within the geographical and charitable restrictions that apply in respect of the Area represented by the Sub-Committee.
- *4. Make recommendations to Council in respect of grants or major items of expenditure above £500 within the geographical and charitable restrictions that apply to in respect of the Area represented by the Sub-Committee.
5. Consult such other parties as the Sub-Committee considers appropriate prior to decision making.

6. Ensure the implementation of decisions affecting the Charitable Trusts as it affects the ward(s) covered by the Sub-Committee.

Functions Delegated

All functions above NOT marked *. Those functions marked * are referred to the Sub-Committee for consideration and recommendation only and must receive approval of the Scottish Borders Council.

(COUNCIL SUB-COMMITTEES)

LLP STRATEGIC GOVERNANCE GROUP

Constitution

- (a) Five Elected Members of Scottish Borders Council being:-
- (i) the Executive Member for Adult Social Care
 - (ii) the Executive Member for Finance
 - (iii) three other Elected Members.
- (b) One non-Council member of the Health and Social Care Integration Joint Board as a non-voting member.

Chairman

The Chairman shall be the Executive Member for Adult Social Care.

Quorum

Three SBC Elected Members of the Sub-Committee shall constitute a quorum

Functions Referred

The following functions of the Council in relation to the LLP (SB Cares) shall stand referred to the Sub-Committee:-

Decision-Making

1. Approve the Scheme of Financial Governance for the LLP and any changes proposed, including but not limited to, the adoption of a Financial Risk Register, the delegation of financial approvals within set limits to particular officers or staff of the LLP and any approvals in respect of signatures on cheques.
- * 2. Approve all staffing matters affecting the terms and conditions of employees of the LLP, Early Retirement/Voluntary Severance, potential compulsory redundancies, the variation of HR Policies and Procedures, any variation in conditions of employment.
3. Approve the expansion or contraction of the business of the LLP, including the pursuit of, bid for, or provision of any new workstreams or Services, or the relinquishment of any existing workstream or Service.
4. Approve the cessation of any part of the Services provided by the LLP.
- *5. Approve the LLP Business Plan.
6. Approve or amend the LLP's scheme of internal delegation authorising named employees or Officers of the LLP to execute certain deeds on its behalf.
7. Approve amendments to the terms of Service Level Agreements.
8. Approve any significant amendments to the business structure of the LLP.
9. Approve any significant alteration to the nature of the LLP's business.

10. Approve the sale, disposal, assignment or otherwise alienation of any assets of the LLP of individual value of more than £50,000 or any interest in any properties.
11. Approve the acquisition of any assets of individual value of more than £50,000 or any interest in any properties.
12. Approve the issue of any loan capital or entry into any commitment with respect to the issue of any loan capital.
13. Approve the formation of any subsidiary, or acquisition of any shares in a company or participation in any partnership or joint venture.
14. Approve any closing down or the making of any material change to the nature scope or location of any business operation
15. Approve the amalgamation or merger with any other company or undertaking
16. Approve the entry into, variation or termination of any commitment by way of a transaction or series of related transactions (including any leasing transactions) which would involve the LLP in the payment or receipt of consideration and having an aggregate value in excess of £50,000
17. Approve any arrangement, contract or transaction which relates to capital expenditure with a value in excess of £50,000
18. Approve the creation of, or give permission to be created any mortgage, charge, encumbrance with other security interests whatsoever over the whole or part of the business undertakings or assets of the LLP or agree to do so, other than liens arising in the ordinary course of business or any charge arising by the operation or purported operation of title retention clauses and in the ordinary course of business
19. Approve any loan (otherwise and by way of a deposit with a bank or other institution the normal business of which includes acceptance of deposits), or, grant any credit (other than in the normal course of trading), or, give any guarantee (other than in the normal course of trading) or indemnity
20. Approve the appointment of a new bank or bank as the Banker to the LLP.
- *21. Approve any change to the status of the pension fund, pension benefit for employees or employer contributions.

Scrutiny

- *22. Monitor the financial records (including Profit and Loss Accounts, Balance Sheet and cash flow) and financial performance of the LLP. Such financial records shall be reported to the Local Authority annually, in arrears, and within one month of the end of the reporting period.
23. Monitor quarterly budgetary control statements to be submitted within one calendar month of each financial quarter close, and make any recommendations as appropriate to the LLP or to Council.

24. Monitor any Extra-Ordinary expenditure requirement which shall be reported by the LLP within one month of having been identified
25. Request any further information in the possession or control of the LLP regarding financial condition and operations of the LLP as the Local Authority may reasonably request.
26. Monitor any dispute arising between the LLP and any union representing its employees.
27. Monitor on a quarterly basis the performance of the LLP as measured against:
 - (a) the Key Performance Indicators contained within the Service Contract;
 - (b) the business plans of the LLP.
28. Monitor any claim made, or likely to be made, relating to the LLP, its Business or property (including any progress on such claims) and of which the LLP has knowledge which might impact financially or reputationally on the LLP, SB Supports or the Local Authority.
29. Monitor all reports prepared by the Care Inspectorate in respect of any part of the Services provided by the LLP.

NOTE: In terms of the LLP Partnership Agreement, any matters falling within Part 2 of the Schedule in the Agreement (Items 1 to 21 above) which are already detailed in the current approved LLP Business Plan, shall not require further specific approval.

Functions Delegated

All functions above NOT marked *. Those functions marked * are referred to the Sub-Committee for consideration and recommendation only and must receive approval of the Council.

SECTION IV

EXECUTIVE

Constitution

- (a) 11 Members of the Council, being:-

Leader of the Council
Executive Members for –
Adult Social Care
Business & Economic Development
Children & Young People
Culture & Sport
Finance
Neighbourhoods & Locality Services
Planning & Environment
Roads & Infrastructure
Transformation & HR
Community Safety

- (b) At that part of an Executive meeting which is considering Education Authority business as a main theme, the Executive will include (for that part of the meeting only) the following additional members as voting members (to be made in accordance with Appendix 1 to this Scheme) – three persons interested in the promotion of religious education appointed in accordance with Section 124 of the Local Government (Scotland) Act 1973 as amended by Section 31 of the Local Government Etc. (Scotland) Act 1994; and the following additional members as non-voting members – two teachers in the employment of the Council appointed as non-voting members by the Council from nominations to be made in accordance with Appendix 2 to this Scheme; two representatives from Parent Councils, one from the Primary Sector, and one from the Secondary Sector; and two pupil representatives.
- (c) At that part of an Executive meeting which is considering Economic Development business as a main theme, the Executive will include (for that part of the meeting only) two additional members appointed from an external source as non-voting members.

Chairman

- (a) The Leader of the Council shall be Chairman of the Executive.
- (b) At that part of an Executive meeting which is considering Education Authority business as a main theme, the Executive will be chaired by the Executive Member for Children & Young People.
- (c) At that part of an Executive meeting which is considering Economic Development business as a main theme, the Executive will be chaired by the Executive Member for Business & Economic Development.

Quorum

Five SBC Elected Members of the Executive shall constitute a Quorum.

Functions Referred

The following functions of the Council shall stand referred to the Committee -

Policy and Performance

1. Review and alter from time to time, as may be considered necessary, any existing policies or strategies not specifically within the remit of any other Council Committee.
- *2. Consider the broad needs of the Council's Area and matters of comprehensive importance, including advising the Council on European Community matters, making recommendations to Council as necessary.
3. Consider regularly Council performance against:-
 - The Single Outcome Agreement
 - Corporate and Improvement Plans including policy objectives and priorities
 - Relevant Business Plan actions and initiatives
 - Statutory Performance Indicators and the Annual Public Performance Report
 - Key performance indicators and other relevant performance indicators
 - Business Transformation
 - Best Value
4. Identify the requirement for any in-depth policy or practice review work arising from the monitoring of performance and refer to the appropriate Committee and/or Director, as necessary.
5. Ensure the enactment of committee decisions and monitor their impact on Council services.

Resources and Services

6. Consider matters relating to the organisation and administration of all Services of the Council, including the business management and financial controls of the Council's significant Trading Operations.
7. Initiate or carry out reviews of strategic or corporate significance and such other reviews as the Executive deem appropriate.

Financial Management

8. Secure the co-ordination, control and proper management of the financial affairs of the Council.
9. Consider regularly the Council's performance against the revenue and capital budgets and associated financial statements.
10. Within the context of the approved Capital Financial Plan, approve proposals for capital expenditure.
11. Within the context of the approved Revenue Financial Plan, except where specifically delegated to another Committee, approve proposals for revenue

expenditure, including proposals for virement in terms of Financial Regulation 7.9. For the avoidance of doubt, this means approval of all decisions relating to virements between Services, capital finance from current revenue, policy changes and the carry forward of earmarked balances.

- *12. Consider requests to incur revenue expenditure not provided for in the approved Revenue Financial Plan and make recommendations to Council.
- *13. Consider requests to incur capital expenditure not provided for in the approved Capital Financial Plan and make recommendations to Council.
- 14. Consider all matters (not delegated directly to Officers) related to:
 - (i) Revenue and Capital budgets and funding approved by Council;
 - (ii) banking;
 - (iii) debt management and debt recovery, including the appointment of sheriff officers;
 - (iv) Treasury Management;
 - (v) procurement;
 - (vi) investment;
 - (vii) borrowing;
 - (viii) income collection;and
 - (ix) insurance arrangements of the Council.
- 15. Consider all matters related to the collection of Council Tax, Rates, (former) Community Charges, Water and Sewerage Charge (on behalf of Scottish Water) and acting as Collecting Authority therefore in terms of Section 79 of the Local Government etc. (Scotland) Act 1994.
- 16. Approve applications for funding and authorise grants above the level not delegated directly to officers.
- 17. Determine applications for financial assistance from outside bodies.
- 18. Establish an ad-hoc Procurement Appeals Committee, consisting of three Members, to consider and determine any appeals by suppliers against the disqualification of their tender by the Council for any reason.

Property, Land and Accommodation

- 19. Consider matters relating to land and buildings, including:
 - (i) asset management planning for the Council's estate;
 - (ii) the provision, management, furnishing, equipping, maintenance and facilities management of buildings;
 - (iii) negotiations relating to commercial developments and the acquisition and disposal of land and/or buildings; and
 - (iv) energy and carbon management.

Staffing

- 20. Consider the training, development and welfare of all staff, including the preparation and review of Council policies on staffing issues and Health and Safety at Work, and the promotion of good human resources management and employment practices.

21. Consider all matters relating to the conditions of service, remuneration, allowances, superannuation and pensions of all employees, including consultation and negotiation with the appropriate Trades Unions as necessary, and the ratification of National Agreements and significant Local Agreements.
 22. Employer discretions under the Local Government Pension Scheme, within the terms of the relevant legislation.
- Education
- *23. Consider the broad educational needs of the Council's area, making recommendations to Council as necessary.
 24. Oversee the functions of the Council under the Education (Scotland) Acts, the Education (Additional Support for Learning) (Scotland) Act 2004, and all other relevant legislation and regulations.
 25. Consider all matters relating to education including pre-school education, primary education, secondary education and community learning and development.
 - *26. Make recommendations on the change of status, or closure, of any school.
 27. Consider all matters relating to Parent Councils.
 28. Establish an ad-hoc Sub-Committee, as required, to deal with any parents who are failing to meet their responsibilities regarding a child's attendance at school, if a parent:-
 - (a) fails to provide a reasonable excuse for the child's absence from school; and/or
 - (b) provides dubious excuses for the child's absence; and/or
 - (c) does not effectively address the matter of the child's absence from school.
- Economic Development
29. Provide strategic leadership and vision for Economic Development in the Scottish Borders, developing and overseeing the delivery of economic development plans.
 30. Ensure key changes are implemented by the Council to achieve improved services for businesses, encouraging a 'business positive' culture across the Council.
 31. Scrutinise and review the effectiveness of Council services, other agencies and organisations in promoting the economic development and well-being of the Scottish Borders.
- Miscellaneous
32. Consider new legislation and advise Council accordingly.
 33. Initiate or defend civil actions other than those relating to matters standing referred to other Committees.

34. Consider all matters not specifically referred to or delegated to any other Committee.
- *35. Make recommendations to Council regarding responses to statutory and other consultations.

Functions Delegated

All of the functions above NOT marked *. Those functions marked * are referred to the Committee for consideration and recommendation only and must receive approval of the Council.

(EXECUTIVE COMMITTEE)

TRADING OPERATIONS SUB-COMMITTEE

Constitution

Five Members of the Council, being:

- (a) four Members of the Executive
- (b) one Member from the Opposition.

Chairman

One of the Executive Members shall be Chairman of the Sub-Committee.

Quorum

Three members of the Sub-Committee shall constitute a quorum.

Functions Referred

The following functions of the Council in relation to significant Trading Operations shall stand referred to the Sub-Committee:-

1. The consideration of matters relative to business management of trading services including providing an appropriate level of scrutiny on the financial risk arising from trading operations.
2. The monitoring of the trading arrangements and operations in terms of the Local Government (Scotland) Act 2003.
3. The evaluation of financial controls and the detailed monitoring of financial and performance levels for trading services.
4. The evaluation of Financial Plans for delivering required performance levels from trading services.
5. Consideration of the strategic model employed by trading services, and to contribute towards the long-term strategic development process.
6. Consideration of matters relative to tendering for internal and external contract works.
7. The determination of appropriate processes and practices, within overall Council policy, to support the efficient and effective development of trading powers.
8. To understand the trading risk exposure and to evaluate measures to manage the trading risk-reward balance.
9. The consideration of Joint Arrangements with suppliers or other parties to improve the effectiveness and/or efficiency of the trading organisation.

Functions Delegated

All of the functions referred to the Sub-Committee.

(EXECUTIVE COMMITTEE)

EDUCATION PERFORMANCE SUB-COMMITTEE

Constitution

Three Elected Members, being the Executive Member for Children & Young People, together with two other Members of the Executive Committee. The Teacher Representatives, Parent Council and Pupil representatives are excluded from membership of the Sub-Committee.

Chairman

The Chairman shall be the Executive Member for Children & Young People.

Quorum

Two Members of the Sub-Committee shall constitute a quorum.

Functions Referred

The following functions of the Committee shall stand referred to the Sub-Committee:-

1. To consider all published reports, action plans, and follow up reports on:
 - (i) pre-school, primary and secondary school by Her Majesty's Inspectorate of Education (HMIe);
 - (ii) community learning and development (CLAD) and other community services by Her Majesty's Inspectorate of Education (HMIe);
 - (iii) Care Inspectorate (on educational establishments in the Scottish Borders);
and
 - (iv) internal school reviews.
- #2. To request follow-up reports in respect of the implementation of any Action Plans, if required, for any of the above reports, and make recommendations to the Executive Committee, as necessary.

Functions Delegated

All functions above NOT marked #. Those functions marked # are referred to the Sub-Committee for consideration and recommendation only and must receive approval of the Executive Committee.

SECTION V

AUDIT AND SCRUTINY COMMITTEE

Constitution

- (a) Nine members of the Council, not on the Executive Committee;
- (b) At that part of an Audit and Scrutiny Committee meeting which is considering Audit matters, the Audit and Scrutiny Committee will include (for that part of the meeting only) three additional members appointed from an external source as non-voting members.

Chairman

The Chairman shall be a member of the Opposition. The Vice-Chairman shall be a member of the Administration.

Quorum

Four Elected Members of the Council shall constitute a quorum.

Functions Referred

The following Audit functions of the Council shall stand referred to the Committee:-

1. Assess the adequacy and effectiveness of the Council's systems of internal financial control and framework of internal control to provide reasonable assurance of effective and efficient operations, including the review of assessment of fraud risks and the monitoring of the counter fraud strategy, actions and resources.
2. Assess the adequacy and effectiveness of the Council's risk management arrangements.
3. Assess the adequacy and effectiveness of corporate governance arrangements against the good governance framework and consideration of annual governance reports and assurances to ensure that the highest standards of probity and public accountability are demonstrated to underpin the delivery of value for money or best value services.
- *4. Review the Council's audited Statement of Accounts and the Annual Report from the External Auditor to Members and the Controller of Audit, prior to submission to Council.
5. Approve the Terms of Reference for Internal Audit and the strategic and annual internal audit plans.
6. Monitor and review the performance of internal audit.
7. All matters relating to the implementation of recommendations contained within internal audit reports.
8. Review external audit plans and arrangements for effective liaison between external and internal audit.

9. Monitor responses to recommendations contained within external audit reports and the implementation of such recommendations.
10. The scrutiny of treasury management strategy and policies.
11. Assess the adequacy and effectiveness of the Pension Fund's systems of internal financial control, including counter fraud, theft or corruption and framework of internal control to provide reasonable assurance of effective and efficient operations.
- *12. Review the Pension Fund's audited Statement of Accounts and the Annual Report from the External Auditor to members and the Controller of Audit, prior to submission to Council.

The following Scrutiny functions of the Council shall stand referred to the Committee:-

- #13. Monitoring the performance of the Authority towards achieving its policy objectives and priorities in relation to all functions of the Council.
- #14. Reviewing the effectiveness of all the Council's work against agreed standards, targets and budgets for the levels of services provided.
- #15. Acting as a focus for value for money and service quality exercises.
- #16. Management of the "Call in" procedure for the examination of decisions of the Executive Committee.
- *17. Developing an annual programme for approval by Council (likely in April each year) on the basis of the scrutiny functions outlined from 13 to 15 above.
18. Any other matter referred to the Committee for consideration by Council or the Executive Committee.

Functions Delegated

All functions above NOT marked # or *. Those functions marked # are referred to the Committee for consideration and any recommendations must receive approval of the Executive Committee. Those functions marked * are referred to the Committee for consideration and recommendation only and must receive approval of Council.

SECTION VI

CIVIC GOVERNMENT LICENSING COMMITTEE

Constitution

Nine Members of the Council.

Quorum

Five members of the Committee shall constitute a quorum.

Functions Referred

The following functions of the Council shall stand referred to the Committee:-

1. All matters relating to the Council's responsibilities for licensing under the Civic Government (Scotland) Act 1982, except those matters specifically delegated to the Chief Legal Officer.
2. All matters relating to the Council's responsibilities for the granting and revocation of miscellaneous licences, except those matters specifically delegated to the Chief Legal Officer.
3. Decide cases where Officers recommend that a private sector landlord is refused registration, or that a private sector landlord be removed from the Private Landlord Register.

Functions Delegated

All of the functions referred to the Committee.

SECTION VII

PENSION FUND COMMITTEE

Constitution

Seven Members of the Council comprising –

- (a) the Convener
- (b) one member of the Executive
- (c) three other Members of the Administration
- (d) two members from the Opposition

Chairman

The Chairman shall be the Convener.

Quorum

Four members of the Committee shall constitute a Quorum.

Functions Referred

The following functions of the Council shall stand referred to the Committee -

1. All matters relating to the Council's role as the Administering Authority for the Scottish Borders Council Pension Fund, within the terms of all relevant Local Government Pension Scheme legislation and the requirements of the Pension Regulator.

Functions Delegated

All of the functions delegated to the Committee.

Joint Meeting with the Pension Board

While the statutory roles and function of the Pension Fund Committee and Pension Board are separate, the normal practice will be that both bodies will meet at the same time to consider the same agenda, with the Chair of the Pension Fund Committee chairing the concurrent meeting. The aim is to engender a positive and proactive partnership culture where in practice the two bodies act as one.

Dispute Resolution between Pension Board and Pension Fund Committee

Within the regulations there is a prescribed approach to dispute resolution between the Pension Board and the Pension Fund Committee.

1. At the joint meeting referred to above, if the Pension Fund Committee and Pension Board cannot reach joint agreement on any matter the process for resolving any differences between the two bodies is set out in 3) below.
2. Whilst this process is undertaken the decision of the Pension Fund Committee is still competent.
3. In the first instance, if at least half of the members of the Pension Board agree, then the Pension Board can refer back a decision of the Pension Fund Committee for further consideration if any of the following grounds are met:

- That there is evidence or information which the Pension Board considers needs re-evaluating or new evidence or data which the Pension Fund Committee did not access or was not aware of at the point of decision making and which is considered material to the decision taken;
 - That the decision of the Pension Fund Committee could be considered illegal or contrary to regulations;
 - That the decision of the Pension Fund Committee is contrary to a relevant Code of Practice published by the Pensions Regulator; or
 - That the decision is not in the interest of the continued financial viability of the Scottish Borders Council Pension Fund or is against the principles of proper and responsible administration of the Scottish Borders Council Pension Fund.
4. This referral must be communicated to the Clerk to the Council within 10 working days of the joint meeting with the Pension Fund Committee which made the decision being required to be reconsidered.
 5. If there is no agreement after the matter has been referred back to the Pensions Fund Committee, then the difference in view between the Pension Board and the Pension Fund Committee will be published in the form of a joint secretarial report from the Pension Board on the Pension Fund website and included in the Pension Fund's Annual Report.
 6. The Scottish LGPS Scheme Advisory Board may also consider and take a view on the matter and, if considered appropriate, provide advice to Scottish Borders Council as the Scheme Manager or the Pension Board in relation to the matter.

(PENSION FUND COMMITTEE)

PENSION FUND INVESTMENT AND PERFORMANCE SUB-COMMITTEE

Constitution

Nine members, being:

- (a) the seven members of the Pension Fund Committee; and
- (b) two non-voting members nominated by the Pension Board.

Chairman

The Chairman shall be the Chairman of the Pension Fund Committee.

Functions Referred

The following functions of the Committee shall stand referred to the Sub-Committee -

1. Reviewing the Pension Fund's Statement of Investment Principles.
- #2. Where appropriate, recommending changes to the Pension Fund Committee in relation to the Statement of Investment Principles.
3. Ensuring appropriate investment management arrangements are in place for monies of the Pension Fund and to review investment manager performance.
4. Overseeing the contractual review of the fund managers and investment adviser(s) and custodian.
- #5. Where appropriate, making recommendations to the Pension Fund Committee in relation to the appointment or removal of a fund manager, investment adviser or custodian.
- #6. Overseeing the overall approach to investment risk management and where appropriate recommending changes to the Pension Fund's Risk Register.

Functions Delegated

All functions above NOT marked #. Those functions marked # are referred to the Sub-Committee for consideration and recommendation only and must receive approval of the Pension Fund Committee.

SECTION VIII

PLANNING AND BUILDING STANDARDS COMMITTEE

Constitution

Nine Members of the Council.

Quorum

Four members of the Committee shall constitute a quorum.

Chairman

The Chairman of the Committee shall be the Executive Member for Planning & Environment.

Functions Referred

The following functions of the Council shall stand referred to the Committee:-

1. All matters relating to Town and Country Planning except the following:-
 - (a) Strategic Development Plan and Local Development Plan
 - (b) Applications referred under Section 38(A)(1) of the Town and Country Planning (Scotland) Act 1997
 - (c) Applications and other matters delegated to the Service Director Regulatory Services
2. All matters relating to the Council's responsibilities for Building Control except those delegated to the Service Director Regulatory Services.
3. Consideration and determination of appeals against the proposed refusal of applications for Building Warrants and Relaxations of the Building Regulations.
4. Consideration and determination of High Hedge Notices not dealt with under delegated powers by the Service Director Regulatory Services.

Functions Delegated

All of the functions referred to the Committee.

SECTION IX

LOCAL REVIEW BODY

Constitution

Nine Members of the Council, being the members of the Planning and Building Standards Committee.

Chairman

The Chairman of the Local Review Body shall be the Chairman of the Planning and Building Standards Committee or in his absence the Vice-Chairman.

Quorum

Four Members shall constitute a quorum.

Assessor

The Review Body may appoint an Assessor to sit with the Local Review Body at any hearing session it elects to hold to advise on matters arising.

Functions Referred

The following functions of the Council shall stand referred to the Review Body:-

1. Conduct Reviews in accordance with Section 43A of the Town and Country Planning (Scotland) Act 1997 where the appointed person has:-
 - (a) Refused an application for planning permission or for consent, agreement or approval;
 - (b) Granted it subject to conditions; or
 - (c) Not determined it within such period as may be prescribed by regulations or a development order.

Functions Delegated

All functions referred to the Review Body

Note

Where the Local Review Body considers that the review documents before them provide sufficient information to enable them to determine the review, they may determine the review without further procedure. (Regulation 12 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure)(Scotland) Regulations 2008.)

Other than in circumstances where the Local Review Body considers the review documents provide sufficient information to enable them to determine the review without further procedure, the Local Review Body may consider the review:

- (a) by means of written submissions;
- (b) by holding one or more hearing sessions;
- (c) by means of a site inspection; or

(d) by a combination of procedures.

Functions Delegated

All functions detailed above.

SECTION X

PETITIONS AND DEPUTATIONS COMMITTEE

Constitution

Seven members, being five Members of the Administration and two Members of the Opposition.

Quorum

Three Elected Members of the Council shall constitute a quorum.

Functions Referred

The following functions of the Council shall stand referred to the Committee -

1. Consider petitions submitted to the Council in accordance with the Council's approved petitions procedure and determine the appropriate action to be taken within the terms of the procedure.
2. Consider deputations to the Council in accordance with the Council's approved deputations procedure and determine the appropriate action to be taken within the terms of the procedure.

Functions Delegated

All of the functions delegated to the Committee.

**SECTION XI
CONSULTATIVE GROUPS**

JOINT CONSULTATIVE GROUP FOR STAFF

Constitution

Fourteen members comprising:-

- (a) The Executive Member for Transformation & HR and five other Members of the Council;
- (b) Eight employee Trade Union Representatives, namely:-
 - (i) Three from Unison
 - (ii) Three from Unite
 - (iii) One from General Municipal and Boilermakers Union
 - (iv) One other to be agreed by the Trade Unions
 - (v) One from GMB: MPO (only to attend for items relating to Chief Officials)

Chairman

The Executive Member for Transformation & HR shall be the Chairman of the Group.

Quorum

Three Members of the Council and four Trade Union representatives shall constitute a quorum.

Functions Referred

The following functions of the Council shall stand referred to the Group:-

1. Consultation on matters relating to terms and conditions of employment, health & safety and welfare of all Council employees except Teachers. (The pay grading, efficiency or disciplinary record of any individual employee is not within the scope of the Group)

Functions Delegated

All functions referred to the Consultative Group.

JOINT CONSULTATIVE GROUP FOR TEACHERS

Constitution

Fourteen members comprising:-

- (a) The Executive Member for Children & Young People and five other Members of the Council, being three members from the Administration and two members from the Opposition.
- (b) Eight employee Trade Union Representatives, namely:-
 - (i) Four from E.I.S.
 - (ii) Two from S.S.T.A.
 - (iii) One from P.A.T.
 - (iv) One other to be agreed by the Trade Unions

Chairman

The Executive Member for Children & Young People shall be the Chairman of the Group.

Quorum

Three Members of the Council and four Trade Union representatives shall constitute a quorum.

Functions Referred

The following functions of the Council shall stand referred to the Group:-

1. Consultation on matters relating to terms and conditions of employment, health & safety and welfare of all Teachers employed by the Council. (The pay grading, efficiency or disciplinary record of any individual teacher is not within the scope of the Group.)

Functions Delegated

All functions referred to the Consultative Group.

EMPLOYEE COUNCIL

Constitution

- (a) Five Elected Members of the Council, being the Convener, the Leader, one other Executive Member, the Executive Member for Transformation & HR, and the Leader of the Opposition.
- (b) Any Five members of the Corporate Management Team.
- (c) Employee representatives from across the Council.

Chairman

The Convener shall be Chairman of the Employee Council.

Quorum

Two Elected Members of the Council, two of the Corporate Management Team, and two of the employee representatives shall constitute a quorum.

Functions Referred

The following functions of the Council shall stand referred to the Employee Council –

1. Share information and promote communication between Council management and staff.
2. Be informed and consulted on (but not as a negotiating body) issues affecting employment and the Council's plans, including:
 - Public sector reform and related issues
 - Information on recent or probable developments of the Council's activities, financial and economic situation
 - Organisational design and development
 - Budget development and implementation
 - Information and consultation on developments regarding employment arrangements, particularly where these may cause significant change to employment
 - Employee benefits
 - Council business issues.

Note: The Employee Council shall not affect the rights and responsibilities of Council management to make all business, financial, commercial, operational and technological decisions.

Functions Delegated

All functions referred to the Employee Council.

SECTION XII

AD-HOC COMMITTEES

STANDARDS COMMITTEE

Constitution

Eight Members of the Council, being, five members from the Administration and three members from the Opposition.

Quorum

Three members of the Committee shall constitute a quorum.

Functions Referred

The following functions of the Council shall stand referred to the Committee:-

1. All matters relating to the Ethical Standards in Public Life etc. (Scotland) Act 2000.
2. The adoption and application of the Code of Conduct for Councillors.
3. The consideration, investigation and determination of all complaints made concerning the conduct of Councillors.
- *4. The consideration and revision from time to time of the list of sanctions available to the Council in the event of misconduct on the part of a Councillor.
5. The consideration of reports from the Monitoring Officer on matters relating to the Ethical Framework.

Functions Delegated

All functions above NOT marked *. Those functions marked * are referred to the Committee for consideration and recommendation only and must receive approval of Council.

APPOINTMENT COMMITTEE

Constitution

Minimum of Five Members of the Council comprising –

- (a) the Leader
- (b) the Executive Member for Transformation & HR
- (c) the relevant Executive Member(s)
- (d) one other Member of the Administration
- (e) one Member from the Opposition

In this context, “relevant Executive Member(s)” means the Executive Member(s) for the Service(s) within which the appointment is being made.

Chairman

The Executive Member Transformation & HR shall be Chairman of the Committee.

Quorum

Three members of the Committee shall constitute a Quorum.

Functions Referred

The following functions of the Council shall stand referred to the Committee -

1. The recruitment of staff to posts at Service Director and above.

Functions Delegated

All of the functions referred to the Committee.

STAFFING APPEALS COMMITTEE

Constitution

All Members of the Council shall be Members of an Appeals Panel, from which three members of a Staffing Appeals Committee shall be drawn.

Chairman

The Executive Member Transformation & HR shall be the Chairman of the Staffing Appeals Panel or in his absence another of the Executive Members.

Selection of Appeal Committees

Each of the Staffing Appeals Committees shall be selected by the Clerk to the Council or her authorised representative in consultation with the Chairman of the Appeals Panel.

Chairman

The Chairman of the Appeals Panel shall chair the Committee or, in his absence, the Chairman shall be another Executive Member.

Quorum

Two Members of the Committee shall constitute a quorum.

Functions Referred

The following functions shall stand referred to the Committee:-

1. The consideration and determination of appeals by all employees against decisions in respect of discipline.
2. The consideration and determination of grievances by all employees.

Note: Grievances in respect of pay, gradings or conditions of service shall be dealt with through the relevant Council policies and procedures and not through the Staffing Appeals Committee.

Functions Delegated

All of the functions referred to the Committee.

EDUCATION APPEALS COMMITTEE

Constitution

The rules for the formal constitution and membership of the Education Appeal Sub-Committee are laid down in the Education (Scotland) Act 1980.

There may be up to three different categories of membership of the Appeal Sub-Committee as follows:-

- (a) Members of the Council who are not members of the Executive Committee.
- (b) Members of the Executive Committee (including non-elected members).
- (c) Lay members.

The following arrangements apply in respect of the selection of the Panel and individual Appeal Sub-Committees.

Appointment of Panel

A Panel from which members of Appeal Sub-Committees shall be drawn shall comprise 53 persons as follows:-

- (a) The Convener, who shall be Chairman of the Panel.
- (b) The Executive Member for Children & Young People, who shall be Vice-Chairman of the Panel.
[Neither of these persons may chair an Appeal Committee.]
- (c) Ten other Members of the Executive Committee, which excludes the Teacher, Parent Council and Pupil representatives (none of whom may chair the Appeal Committee).
- (d) Twenty three Members of Council who are not members of the Executive Committee.
- (e) Eighteen persons who are not members of the Council or the Executive Committee and who are either parents of children of school age or persons having experience in education or persons acquainted with the educational conditions in the area, and who are members of the nominated Parent Councils – one to be nominated by each Secondary Parent Council and by the Parent Council for the largest primary school in each of the catchment areas for the nine secondary schools. In the event of any such primary or secondary school not having a Parent Council or of any Parent Council declining to provide a nominee, then a nomination will be sought from the Parent Council of the next largest primary school and so on.

Functions Referred

The following functions shall stand referred to the Sub-Committee:-

1. Appeals by parents against decisions of the Council acting as Education Authority as to the schools, excluding nursery schools or classes, which their child or children should attend.
2. Appeals by parents against decisions of the Council acting as Education Authority to exclude their child or children from school.
3. Various appeals by parents in connection with their child or children being recorded as having marked or continuing special education needs.

Functions Delegated

All of the functions referred to the Sub-Committee.

Duration of Appointment

The term of office of members of the Panel shall be:-

- (a) In the case of Members of the Executive Committee or of the Council, from the date of their appointment until the date of the next Council election.
- (b) In the case of persons nominated by Parent Councils, from the date of their appointment until the date when they are due to stand down.

Selection of Appeal Sub-Committees

5. (a) Each Appeal Sub-Committee shall be selected by the Clerk to the Council or his authorised representative in consultation with the Chairman of the Panel, or, in his absence, the Vice-Chairman of the Panel.
- (b) Each Appeal Committee shall comprise 5 persons being:-
- 3 Members of the Executive Committee or of the Council from the Panel.
 - 2 other persons from the Panel.
- (c) In the event of all 5 persons not being in attendance at a hearing of an appeal, the Appeal Sub-Committee shall be reduced to 3 persons including not less than:-
- 1 Member of the Executive Committee or of the Council from the Panel.
 - 1 other person from the Panel.
- (d) The Clerk to the Council or his authorised representative, in consultation with the Chairman or, in his absence, the Vice-Chairman of the Panel, shall appoint the Chairman of the Appeal Committee, who shall not be a Member of the Executive Committee.

Administrative Arrangements

6. The Clerk to the Council or his authorised representative shall act as Clerk to the Appeal Committee and the Service Director Children and Young People or his representative shall present the case for the Council at any Appeal Committee hearing.

MEMBERS SOUNDING BOARD: POLITICAL MANAGEMENT ARRANGEMENTS

Constitution

Six members of the Council: being the Convener, the Leader, and one member from each of the constituted political groups in the membership of the Council.

Chairman

The Chairman of the Board shall be the Leader.

Quorum

Three members of the Board shall constitute a quorum.

Functions Referred

The following functions shall stand referred to the Board:-

- *1. To advise on any review of decision-making and policy development processes and the working practices which support these processes.
- *2. To make recommendations on any changes or actions which will strengthen and enhance the democratic decision-making and policy development procedures.
- *3. To make recommendations on consultations requiring political input.
4. To exercise any delegated functions made by the Council.

Functions Delegated

All functions above NOT marked *. Those functions marked * are referred to the Board for consideration and recommendation only and must receive approval of Council.

WARD PROJECT ADVISORY GROUPS

Constitution

An Advisory Group shall be established for each Ward, as required, comprising the elected Members for that particular Ward or, should more than one Ward be involved, the elected Members for those particular Wards.

Chairman

The Chairman of each Advisory Group shall be appointed from within the membership at the meeting.

Quorum

Two members shall constitute a quorum.

Functions Referred

The following functions shall stand referred to each Advisory Group:-

- #1. Consider local major capital project(s) at the early development stages, as required, and make the Executive Committee aware of any particular local issues or insight on the project(s), prior to the Executive Committee taking decisions.

Functions Delegated

No functions are delegated. Those functions marked # are referred to the Advisory Groups for consideration and recommendation only to the Executive Committee.

SECTION XIII

COMMUNITY AND PARTNERSHIP BODIES

General

1. The Council is required, or has agreed, to set up, lead and/or participate in a number of Community and Partnership Bodies. The aim is to work in partnership with other key public, voluntary and private bodies, together with communities and businesses to maintain and improve the quality of life and meet the needs of Borders residents and their communities through the delivery of high quality public services, projects, advocacy and other actions.
2. The principles for going forward are –
 - To provide effective structures for delivery/implementation;
 - To include partner buy-in and Member involvement;
 - To have meaningful community involvement and stakeholder engagement as appropriate;
 - To help prioritise services where most needed;
 - To comply with any statute and regulations governing those public, private and voluntary sector organisations involved.
3. Each of the Community and Partnership Bodies in the following sections shall take cognisance at all times of the following over-arching outcome within the Single Outcome Agreement:-

**Our public services are high quality,
continually improving,
efficient and
responsive to local people's needs.**

4. Decisions at meetings of the Bodies in this Section shall be reached on a consensus basis where possible between the SBC Elected Members and other members of the Body. Should consensus between SBC Elected Members and other members not be reached on a decision, then the matter shall be raised at each individual organisation's governing body, except for Locality Committees, whereby the Elected Members of Scottish Borders Council shall decide the matter by vote.
5. Any delegated budgets shall operate as aligned budgets delegated to the Committee of Scottish Borders Council and the Committees or representatives of other partner organisations respectively, and this will mean that only Members of Scottish Borders Council may expend budgets delegated by Scottish Borders Council, and other organisations' budgets shall be expended in accordance with their own operating rules.

POLICE, FIRE & RESCUE, AND SAFER COMMUNITIES BOARD

Constitution

Eleven members, being six Members of the Council, and five non-voting members appointed from an external source.

The Council Members shall comprise the Executive Member for Community Safety, and five other Members of the Council.

The non-voting members shall comprise a representative from each of NHS Borders, the Scottish Borders Housing Network, Lothian and Borders Community Justice Authority, the voluntary sector, and the business sector.

Chairman

The Chairman and Vice-Chairman of the Board shall be Elected Members of the Council.

Quorum

Three Elected Members of the Council shall constitute a quorum.

Functions Referred

The following functions of the Council shall stand referred to the Board:-

- *1. Assess the adequacy and effectiveness of the Scottish Borders Policing Plan in terms of priorities, community engagement and performance related measures to provide reasonable assurance of effective and efficient implementation and operation; and make recommendations on any aspect of these Plans in terms of issues or improvements.
- *2. Assess the adequacy and effectiveness of the Scottish Borders Fire and Rescue Plan in terms of priorities, community engagement and performance related measures to provide reasonable assurance of effective and efficient implementation and operation; and make recommendations on any aspect of these Plans in terms of issues or improvements.
- *3. Assess the adequacy and effectiveness of the Scottish Borders Safer Communities Plan in terms of priorities, community engagement and performance related measures to provide reasonable assurance of effective and efficient implementation and operation; and make recommendations on any aspect of these Plans in terms of issues or improvements.
4. Contribute to the delivery of the Scottish Borders Single Outcome Agreement (SOA) within the Scottish Borders Community Planning Transformation Plan, and in particular the local outcome indicators and programme in relation to the national outcome "We live our lives safe from crime, disorder and danger".
5. Monitor and keep under review progress and delivery of all Safer Communities projects and initiatives.
6. Consider statistical reports on complaints on policing, fire and rescue, and safer communities in the Scottish Borders.

- *7. Consider and draft responses to any consultation documents pertaining to policing, fire & rescue services, and safer communities.

Functions Delegated

All functions above NOT marked *. Those functions marked * are referred to the Board for consideration and recommendation only and must receive approval of the Council.

COMMUNITY PLANNING STRATEGIC BOARD

General

The Community Planning Strategic Board shall comprise Scottish Borders Council Elected Members meeting together with Statutory and other Community Planning Partner representatives.

Constitution

- (a) Any three from the following Elected Members of Scottish Borders Council being:-
 - (i) 4 Executive Members;
 - (ii) the Leader of the Opposition

- (b) Representatives from each of the other statutory Community Planning Partners, being:-
 - (i) NHS Borders – 2 representatives
 - (ii) Scottish Enterprise – 1 representative
 - (iii) Police Scotland – 1 representative
 - (iv) Scottish Fire and Rescue Service – 1 representative

- (c) Representatives from the following Community Planning Partners:
 - (i) Registered Social Landlords – 1 representative;
 - (ii) Borders College – 1 representative;
 - (iii) Third Sector – 1 representative.

Chairman

The Board must be chaired by an Elected Member of the Council.

Quorum

Two Elected Members of the Council and one representative from each of 2 other statutory Community Planning Partners shall constitute a quorum.

Functions Referred

The following functions of the Council, within policy, budget and legislative requirements, and in compliance with any statute and regulations governing these public, private and voluntary sector organisations involved, shall stand referred to the Board -

1. Approve, monitor and evaluate progress on the Local Outcomes Improvement Plan and the individual Locality Plans.
2. Monitor the work of the Joint Delivery Team and Themed Delivery Groups.
3. Find consensus in reaching decisions on those issues that involve competing interests or are controversial or contentious.
- *4. Identify the ideal level of resources necessary to achieve the outcomes of the Plans and advise partners of these.

5. Work together to resolve any problems arising from significant issues.
- *6. Consider and make recommendations to the Community Planning Consultative Partnership and/or partner organisations on any aspects of community planning in terms of issues or improvements.
7. Provide the Community Planning Consultative Partnership with an annual assessment of community planning in the Scottish Borders.
8. Sign off the Annual Report on Community Planning, after consultation with the wider Community Planning Consultative Partnership.

Functions Delegated

All functions above NOT marked *. Those functions marked * are referred to the Board for consideration and recommendation only and must receive approval of the Council and other relevant Community Planning partner organisations.

LOCALITY COMMITTEES

Constitution

Berwickshire Locality Committee –

- (a) The six elected Scottish Borders Councillors representing the Wards of East Berwickshire and Mid-Berwickshire;
- (b) The Chairman or a representative from each of the Community Councils in the Berwickshire area;
- (c) A representative from NHS Borders;
- (d) A representative from the Police;
- (e) A representative from any other local body as agreed by the Scottish Borders Councillors.

Cheviot Locality Committee –

- (a) The six elected Scottish Borders Councillors representing the Wards of Kelso & District and Jedburgh and District;
- (b) The Chairman or a representative from each of the Community Councils in the Cheviot area;
- (c) A representative from NHS Borders;
- (d) A representative from the Police;
- (e) A representative from any other local body as agreed by the Scottish Borders Councillors.

Eildon Locality Committee –

- (a) The ten elected Scottish Borders Councillors representing the Wards of Galashiels & District, Leaderdale & Melrose, and Selkirkshire;
- (b) The Chairman or a representative from each of the Community Councils in the Eildon area;
- (c) A representative from NHS Borders;
- (d) A representative from the Police;
- (e) A representative from any other local body as agreed by the Scottish Borders Councillors.

Teviot and Liddesdale Locality Committee -

- (a) The six elected Scottish Borders Councillors representing the Wards of Hawick and Denholm and Hawick and Hermitage;
- (b) The Chairman or a representative from each of the Community Councils in the Teviot and Liddesdale area;
- (c) A representative from NHS Borders;
- (d) A representative from the Police;
- (e) A representative from any other local body as agreed by the Scottish Borders Councillors.

Tweeddale Locality Committee -

- (a) The six elected Scottish Borders Councillors representing the Wards of Tweeddale East and Tweeddale West;
- (b) The Chairman or a representative from each of the Community Councils in the Tweeddale area;

- (c) A representative from NHS Borders;
- (d) A representative from the Police;
- (e) A representative from any other local body as agreed by the Scottish Borders Councillors.

Chairman/Vice Chairman

The Chairman and Vice Chairman of each Locality Committee shall be Members of Scottish Borders Council.

Quorum

Three of the Scottish Borders Council Members of each Locality Committee, including at least one representative from each Ward, shall constitute a quorum, except for the Eildon Locality Committee where five shall constitute a Quorum.

Functions Referred

The following functions of the Council shall stand referred to each Locality Committee, in compliance with any statute and regulations governing those public, private and voluntary sector organisations involved:-

1. Scrutinise the local impact and performance of Council and other services in the area.
2. Scrutinise the local impact and performance of the Community Planning Partnership in the area.
- *3. Make recommendations on the objectives and priorities for the area, including economic development, engaging with local communities and businesses as appropriate.
4. Provide direction for decision-making on those issues that involve competing interests or are controversial or contentious, other than planning applications.
5. Gain a shared understanding of need in the area.
6. Seek to engage and involve the local business community and consider ways to attract commercial enterprise to the area.
7. Act as a consultation body requiring local input, where appropriate.
8. Determine local holiday dates.
- *9. Consider and make recommendations for Local Byelaws and Management Rules.
- *10. Consider and make recommendations if required to the relevant Committee on local community matters, including local economic development plans.
- *11. Identify impediments and barriers which inhibit integrated approaches in local service provision, and make recommendations on how these could be overcome.
12. Approve Small Schemes and Roads Funding Members Priorities, including the use of Pay Parking income (restricted to specific towns only).

13. Approve all matters relating to street naming and numbering, where not delegated to officers.
14. Approve local traffic management schemes.
15. Approve the making of temporary, permanent or experimental orders for the regulation of traffic, including stopping-up orders.

Functions Delegated

All functions above NOT marked *. Those functions marked * are referred to the Committee for consideration and recommendation only and must receive approval of the relevant other Council committee.

General

In addition to the functions referred and delegated to the Locality Committees, the Council or other Organisations may from time to time seek the views of Locality Committees on specific matters or applications out-with their normal remit.

SECTION XIV
OTHER COMMITTEES/BOARDS (NOT COMMITTEES OF COUNCIL)

Governed by the Licensing (Scotland) Act 2005

LICENSING BOARD

There shall be constituted the Scottish Borders Licensing Board, "the Licensing Board", meeting as required and having the following constitution, quorum and functions.

Constitution

The Licensing Board shall consist of nine Members of the Council.

Convener

The Convener of the Licensing Board shall be appointed at the first meeting of the Licensing Board from among their number.

Quorum

Five Members of the Licensing Board shall constitute a quorum.

Functions Referred

The following functions stand referred to the Licensing Board in terms of the relevant Liquor Licensing and Betting & Gaming Legislation.

1. All matters relating to Liquor Licensing.
2. The approval of disciplinary or enforcement action relating to Licensees.
3. All matters relating to Bookmakers' Permits, Betting Office Licences, Bingo Licences and Amusement with Prizes Permits for Liquor Licensed Premises.

Note: All Members of the Licensing Board must complete satisfactorily the required training before taking any part in Licensing Board proceedings.

**SCOTTISH BORDERS HEALTH AND SOCIAL CARE
INTEGRATION JOINT BOARD**

Constitution

- (a) Five Elected Members of Scottish Borders Council being:-
 - (i) three members of the Executive
 - (ii) two other Elected Members
- (b) Five Members of NHS Borders
- (c) A number of advisory (non-voting) members as identified by the Integration Joint Board, including:
 - (i) Health and Social Care representatives
 - (ii) Chief Social Work Officer
 - (iii) Chief Financial Officer of the Joint Integration Board
 - (iv) from the staff side
 - (v) from the third sector
 - (vi) from carers
 - (vii) from service users
 - (viii) Chief Officer of the Integration Joint Board

Chairman

The first Chairman of the Board shall be from the body not employing the Integration Board's Chief Officer, with the Vice-Chairman from the body employing the Chief Officer. The Chairman shall not have a casting vote.

Quorum

Three Elected Members from Scottish Borders Council and three members from NHS Borders shall constitute a Quorum

Budgets

Any delegated budgets shall operate as aligned budgets and shall require the final approval of Scottish Borders Council and NHS Borders respectively.

Functions Referred

The following functions of the Council and NHS Board, within policy, budget and legislative requirements, shall stand referred to the Board:

1. All arrangements relating to matters detailed in, and limited to, the Scheme of Integration concerning:
 - (a) Local Governance Arrangements
 - (b) The specific services delegated
 - (c) Local Operational Delivery Arrangements
 - (d) Clinical and Care Governance
 - (e) Chief Officer
 - (f) Workforce
 - (g) Finance

- (h) Participation and Engagement
- (i) Information Sharing and Data Handling
- (j) Complaints
- (k) Claims Handling, Liability & Indemnity
- (l) Risk Management
- (m) Dispute Resolution.

Functions Delegated

Where detailed in the Scheme of Integration, functions are referred to the Board for consideration and recommendation only and must receive approval of the Council.

REGULATIONS – RELIGIOUS REPRESENTATIVES

for Nominations of Persons interested in the Promotion of Religious Education to be Appointed to the Executive Committee (for that part of the meeting considering Education Authority matters)

1. The Council shall appoint three persons interested in the promotion of religious education to be members of the Executive Committee (for that part of the meeting considering Education Authority matters) in accordance with Section 124 of the Local Government (Scotland) Act 1973, as amended by Section 31 of the Local Government etc. (Scotland) Act 1994.
2. The appointments shall be made by the Council as soon as possible after the ordinary statutory election of Councillors in the month of May and, subject to Regulation 5(e), the persons will be appointed and hold office until the day of the next ordinary statutory election of Councillors.
3. One person interested in the promotion of religious education shall be nominated by the General Assembly of the Church of Scotland in terms of Section 124 of the Local Government (Scotland) Act 1973 as amended. The Clerk to the Council shall, in a year of an election of Councillors, request the Principal Clerk of the General Assembly of the Church of Scotland to submit to him a nomination of the person not later than the First day of May in that year.
4. One person interested in the promotion of religious education shall be nominated by the Roman Catholic Church, in such manner as may be determined by its Scottish Hierarchy in terms of Section 124 of the Local Government (Scotland) Act 1973 as amended. The Clerk to the Council shall, in a year of an election of Councillors, request the Archbishop of Edinburgh and St. Andrews to submit to him a nomination of the person not later than the First day of May in that year.
5. One other person interested in the promotion of religious education shall be nominated in terms of Section 124 of the Local Government (Scotland) Act 1973, as amended. The nomination shall be made in accordance with the following provisions:-
 - (a) Not later than the Fifteenth day of March in the year of an election of Councillors, the Clerk to the Council, by advertisement in one or more newspapers circulating in the Area, shall give notice that the Churches or denominational bodies (other than the Church of Scotland and the Roman Catholic Church) who claim to have duly constituted charges or other regularly appointed places of worship within the Area and to be entitled to be represented at the meeting for nomination of one person with a view to appointment as a member of the Executive Committee (for that part of the meeting considering Education Authority matters), may obtain copies of these Regulations on application to him; and that each of these Churches or denominational bodies who desire to be represented at the meeting for the nomination of one person with a view to appointment as a member of the Executive Committee (for that part of the meeting

considering Education Authority matters) must transmit to him prior to the Thirty first day of March -

- (i) A certified list of the names and situations of the duly constituted charges or other regularly appointed places of worship which such church or other denominational body claims to have within the Area;
- (ii) A certified statement of the number of representatives whom such church or denominational body claims to be entitled to have at the said meeting calculated in accordance with the following scale -

Number of duly constituted charges or other regularly appointed places of worship	Number of representatives at meeting
Not more than three	One
More than three and not more than six	Two
More than six and not more than ten	Three
More than ten and not more than fifteen	Four
More than fifteen and not more than twenty	Five
Each ten in excess of twenty	One additional

- (iii) The full names and postal addresses of the persons appointed to represent such Church or denominational body at the said meeting.
- (b) Not later than the Seventh day of April, the Clerk to the Council shall -
- (i) Prepare a list of the Churches or denominational bodies who have claimed to have duly constituted charges or other regularly appointed places of worship within the Area, which list shall, as regards each Church or denominational body included therein, show the total number of duly constituted charges or other regularly appointed places of worship and the number of representatives at the aforesaid meeting which such Church or denominational body has claimed.
 - (ii) Transmit a copy of such list to each of the Churches or denominational bodies included therein, and at the same time intimate to such Churches or denominational bodies that they may inspect at his office all the certified lists of the duly constituted charges or other regularly appointed places of worship and all the certified statements of the numbers of representatives claimed at the aforesaid meeting which he has received from Churches or denominational bodies in the Area; and that any Church or denominational body included in the list may, within seven days after the date of such intimation, lodge with him objections to any of the certified lists or certified statements on the ground that such list or statement is inaccurate.
- (c) If any objection to any such certified list or certified statement on the ground that it is inaccurate is received by the Clerk to the Council in accordance with the immediately preceding paragraph, he shall, as soon as reasonably may be, fix a time and place for the hearing and determination of such objection and send a copy of each such objection to each Church or denominational body included in the list and intimate

the time and place fixed for the hearing and determination of the objections, and each Church or denominational body included in the list may be represented at such hearing and determination by not more than two representatives. The Convener or a person nominated by him shall preside at such hearing and, after such procedure as he may prescribe, shall determine whether the objection is well founded and shall in accordance with the scale prescribed in paragraph (a)(ii) of this Regulation, fix the number of representatives whom each church or denominational body shall be entitled to have at the meeting for the nomination of a person in terms of this Regulation. The determination of the Convener or the person appointed by him shall be final and not subject to review.

- (d) If no such objections are received or upon the determination of any such objections, the Clerk to the Council shall call a meeting of the representatives appointed by the Churches or denominational bodies for the purpose of nominating a person with a view to such person being appointed a member of the Executive Committee (for that part of the meeting considering Education Authority matters). Such meeting shall be held in the Council's Headquarters, Newtown St. Boswells, not later than the Thirtieth day of April and shall be called by circular addressed and sent by post to each representative not less than six days prior to the date of the meeting. The Convener, or such other person appointed by him, shall preside and conduct and regulate the proceedings at the meeting, but he shall have only a casting vote. Each representative of a Church or denominational body present at the meeting shall have one vote only. The Clerk to the Council shall report the result of such meeting of representatives to the Council as soon as possible after the ordinary statutory election of Councillors.
- (e) In the event of a casual vacancy among the members of the Executive Committee appointed in accordance with this Regulation, the provisions contained in this Regulation shall apply to and govern the constitution and covering of the meeting of representatives of Churches or denominational bodies for the purpose of filling such vacancy. The Clerk to the Council shall determine the dates for taking the action required of him, allowing periods of time between events similar to those specified in the preceding sub-paragraphs.

REGULATIONS - TEACHERS**for Nominations of Teachers to be Appointed to the Executive Committee (for that part of the meeting considering Education Authority matters)**

1. The Council shall appoint two Teachers in the employment of the Council as Teachers' Representatives to be members of the Executive Committee, for that part of the meeting considering Education Authority matters.
2. The appointments shall be made by the Council as soon as possible after the ordinary statutory election of Councillors in the month of May and, subject to Regulation 13, the Teachers' Representatives shall be appointed and hold office until the day of the next ordinary statutory election of Councillors.
3. Teachers entitled to nominate and vote for Teachers' Representatives and teachers entitled to be nominated as Teachers' Representatives shall be registered teachers holding full-time permanent appointments with the Council and engaged in Primary or Secondary Education as at the First day of March in the year of election.
4. A teacher shall be entitled to nominate and vote for not more than two Teachers' Representatives.
5. The Convener or a person nominated by him shall be the Supervising Officer to supervise the nominations of Teachers' Representatives and the decisions of the Supervising Officer on all matters relating to the nominations shall be final and not subject to review.
6. Not later than the Fifteenth day of March in the year of an election of Councillors, the Service Director Children and Young People shall send to all teachers entitled to nominate Teachers' Representatives a notice specifying the right of each teacher to nominate not more than two Teachers' Representatives and the arrangements for making nominations of Teachers' Representatives and for voting on the nominations if necessary.
7. Each nomination shall be on a form prescribed by the Service Director Children and Young People and shall be signed by two teachers, one as proposer and one as seconder, and shall be counter-signed by the nominee to signify his or her consent to the nomination.
8. Candidates may provide a personal statement of not more than 250 words, which statement must either accompany the nomination form or be lodged with the Service Director Children and Young People on the Seventh day of April in the year of the election at the latest. The statement will be reproduced and circulated by the Service Director Children and Young People with the ballot papers. Statements must not be defamatory, offensive, obscene, likely to incite racial hatred or political in nature or designed to effect public support for a political party. If any part of the personal statement is not permitted by reason of being defamatory, offensive, obscene, likely to incite racial hatred or political

in nature, the circulation of it will be refused by the Supervising Officer unless suitably amended by the candidate or candidates concerned. The candidates remain responsible for their own personal statement

9. Nominations must be lodged with the Service Director Children and Young People at Council Headquarters, Newtown St. Boswells, not later than 4 p.m. on the Thirty first day of March in the year of election.
10. Immediately after the closing date for the receipt of nominations, the Service Director Children and Young People shall issue to each teacher who is validly nominated, a list of the names and addresses of all teachers who are validly nominated. A teacher may withdraw his or her nomination by written intimation to that effect lodged with the Service Director Children and Young People not later than 4 p.m. on the Seventh day of April in the year of election.
11. Where more than two teachers remain validly nominated the Service Director Children and Young People shall, not later than the Fifteenth day of April in the year of election, send ballot papers to all the teachers entitled to vote.
12. Ballot papers, duly completed, shall be lodged in sealed marked envelopes with the Service Director Children and Young People not later than 4 p.m. on the Twenty fifth day of April in the year of election.
13. The Supervising Officer shall make arrangements for the ballot papers to be opened and the votes to be counted not later than the Thirtieth day of April in the year of election and shall forthwith notify the names of the persons duly nominated as Teachers' Representatives to the Chief Executive who shall report the names to the Council as soon as possible after the ordinary statutory election of Councillors.
14. In the event of a casual vacancy among the Teachers' Representatives on the Executive Committee, the provisions contained in these Regulations shall apply to and govern the nomination of a successor Teachers' Representative. The Service Director Children and Young People shall determine the dates for taking the action required of him allowing periods of time between events similar to those specified in the preceding Regulations. The teachers entitled to nominate and vote for the Teachers' Representatives shall be registered teachers holding full-time permanent appointments with the council and engaged in Primary or Secondary Education all as at the Fifteenth day prior to the date fixed by the Service Director Children and Young People for issuing the notice specified in Regulation 6 above.

POLITICAL GROUPS

Constitution of political groups

1. (1) A political group shall be treated as constituted in relation to a local authority when there is delivered to the proper officer of the local authority a notice in writing which -
 - (a) is signed by two or more members of the local authority who wish to be treated as a political group; and
 - (b) complies with the provisions of sub-paragraph (3).
- (2) A political group shall cease to be constituted if the number of persons who are to be treated as members of that group is less than two.
- (3) A notice under sub-paragraph (1) shall state -
 - (a) that the members of the local authority who have signed it wish to be treated as a political group;
 - (b) the name of the group; and
 - (c) the name of one member of the group who has signed the notice and who is to act as its leader.
- (4) A notice under sub-paragraph (1) may specify the name of one or other member of the group who has signed the notice and who is authorised to act in the place of the leader when he is unable to act ("the deputy leader").
- (5) The name of the group or the name of the person who is the leader or deputy leader may be changed by a further notice in writing delivered to the proper officer and signed -
 - (a) in the case of a change in the name of the group or the deputy leader, by the leader of the group or a majority of the members of the group;
 - (b) in the case of a change of the leader of the group, by a majority of the members of the group.

Membership of political groups

2. Subject to paragraph 4, a member of the local authority is to be treated as a member of a political group if -
 - (a) he has signed a notice in accordance with paragraph 1; or
 - (b) he has delivered to the proper officer a notice in writing which is signed by him and by the leader or deputy leader of the group or by a majority of the members of the group, stating that he wishes to join the group.

Cessation of membership

3. A person is to be treated as having ceased to be a member of a political group when -
 - (a) he has ceased to be a member of the local authority;
 - (b) he has notified the proper officer in writing that he no longer wishes to be treated as a member of the group;
 - (c) there is delivered to the proper officer a notice under paragraph 1 or 2(b) signed by the person whereby a new political group is constituted or he joins another political group; or
 - (d) there is delivered to the proper officer a notice in writing signed by the majority of the members of the group stating that they no longer wish him to be treated as a member of it.

Restriction on membership

4. No person shall be treated as a member of more than one political group at any given time and, accordingly, if a person changes the political group of which he is a member by a notice under paragraph 1 or 2 he shall from the date of delivery of that notice be treated -
 - (a) in the case of a notice under paragraph 1, as a member only of the new political group which is constituted in accordance with that paragraph; and
 - (b) in the case of a notice under paragraph 2(b) as a member only of the group named in the notice.