



**SCOTTISH BORDERS COMMUNITY
COUNCIL SCHEME REVIEW WORKING
GROUP
THURSDAY, 7 MARCH, 2024**

**Please find attached the comments in respect of Item 5
on the agenda for the above meeting.**

5. Responses from Community Councils on Informal Consultation (Pages 3 - 22)

Consider responses attached from:

- (a) Crailing, Eckford and Nisbet
- (b) Duns
- (c) Earlston
- (d) Hawick
- (e) Hobkirk
- (f) Innerleithen & District
- (g) Kelso
- (h) Leitholm, Eccles and Birgham
- (i) Peebles
- (j) Reston & Auchencrow
- (j) Selkirk and District
- (k) Upper Teviotdale and Borthwick Water
- (l) Walkerburn & District

(Copies attached.)

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Agenda Item 5

Bob Hope, Chair,
11 East Haugh,
Birgham,
Coldstream TD12 4FG
bobhopeprojects@gmail.com
07979691953

AMENDED COUNCIL POLICY DOCUMENTS IN RELATION TO COMMUNITY COUNCILS

I refer to the 12 significant documents circulated to Community Council for comment. I have circulated these documents to our members and my response takes cognizance of their remarks. The first comment I would make is that there is an urgent need for the Council (and perhaps the Scottish Government) to consider what it actually expects from a Community Council made up of volunteers. It appears that year on year there are more and more roles for community councils with extensive documents to consider and respond to.

A role description which provides a realistic outline of the duties of a Community Councillor and anticipated time commitment expected would be a good start.

I fully understand the need for policy documents to provide a working framework for Community Councils and a point of reference when required.

As a Community Council we understand that we have several significant roles:

1. Consulting with our and informing our communities in relation to their needs and aspirations and feeding them to the relevant public body in an effort to inform our needs for public service. These consultations are formalized in our Plan for Place.
2. Responding on behalf of our communities in relation to SBC consultations and consultations from other public bodies.
3. Considering planning applications for any buildings/developments in our area – consulting with local communities and responding.

From our experience these are roles which require a significant commitment of time by our community councillors. With the advent of battery energy storage system development in our area this time commitment has been greatly increased.

Number of Community Councillors:

At this time our Community Council has an allocation of 10 members: 4 – Leitholm, 2 – Eccles and 4 Birgham. We believe that the geographic area covered by a community council should be taken into account in addition to population of the area when deciding community council numbers. A community council with responsibility for a town serves one community, while a rural community council can serve several distinct communities. This is the case with our own community council where each of our villages has a distinct character and needs. We seek permission to extend our community council numbers by 2 members with these members being recruited from anywhere in our area as opposed to specific village. This would provide flexibility to have some of our number with specific tasks within our organization.



Bob Hope, Chair,
11 East Haugh,
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We note the extensive process for election of members in your paperwork. We are not sure how this works in other Community Council areas, however, historically we have never had a surplus of applicants despite vacancies being advertised in our communities.. Our current community councillors were elected either at our AGM where they attended and showed interest in our work, or alternatively, have been actively recruited from our communities to fill mid term vacancies with their membership confirmed at meetings.

Finance:

At this time we operate a bank account paying bills by cheque and in line with our guidelines. We believe that there is now a need for our Treasurer to have access to internet banking and would ask for guidance as to how this can work. From my previous charity work, our treasurer did have access to internet banking. Prior to any payment being made she required email permission from a second signatory prior to making a payment.

Planning:

I note that it is now proposed that the onus will be on our Community Council to check council planning lists to see whether we would wish to comment. I would make the following points:

1. My understanding of the planning process is that the Community Council is a statutory consultee in planning matters and as such the council should continue to make any applications for our area known to us.
2. As volunteers, already committing many hours to deliver a service to our community and to the Scottish Borders Council, it is unfair to place this additional burden on us.
3. Such is the complexity and amount of paperwork involved in many of the current planning applications there is a need for Community Councils to be supported through the process.

Equalities Document:

Bullet point 2 says that CCs should seek to improve the diversity of its members. We would suggest that this should be 'in line with local demographics'.

Bullet point 4 refers to 'staff' – should be individuals/people?

Resource Implications:

Through any review at this time there needs to be a keen focus on making best use of our human resources – both in relation to our staff team at SBC and our volunteers in community councils. Wherever possible processes need to be simplified and streamlined.

Had I been presented with a handbook containing these 12 documents at my time of considering joining our community council, I would have been liable to walk away.

Duns Community Council

Chairman: Alex Johnson
Vice Chairman: David Adams
Secretary: Jim Carnie
Treasurer: Andrew Mitchell

email: dunscommunitycouncil@gmail.com



SCOTTISH BORDERS COMMUNITY COUNCIL SCHEME

Dear Caroline,

Here are comments on the Scheme and Ancillary Documents from Duns Community Council:

Doc 1:

- 1) all pages are numbered but should be 1 of 24, 2 of 24 etc.
- 2) text error in 5th sentence.

Doc 2:

- 1) all pages numbered but should be 1 of 25, 2 of 25 etc
- 2) Page 22 - put full name of candidate above top middle column instead of inside each row,

Doc 3:

- 1) part 10 Meetings - no mention of online and/or in person. Is this deliberate? Online is mentioned in Doc 4 step 4.3.
- 2) part 10.2 - states the next meeting agenda is to be sent to the Director of Corporate Governance, an e-mail address would be useful or if you mean paper copy an address is required.
- 3) part 16 Financial Provisions, step 16.4 - states a copy of the approved accounts is to be sent to the Director of Resilient Communities, an e-mail address would be useful or if you mean paper copy an address is required. Why is it necessary to use two different persons, why can't one person with one address be used or a common web address?
- 4) no version number is indicated on the document.

Doc 4:

- 1) steps 5.2, 5.3 & 5.4 - the term 'shall' is used, this is a mandatory word and therefore gives no leeway to change the order of business. I would suggest a change too 'shall include'.
- 2) is this really necessary? I do not know of any organisations which plan their AGM dates a year in advance, who knows what dates are suitable or not in a year's time.
- 3) all pages are numbered but should be 1 of 4, 2 of 4 etc.

Doc 5:

- 1) no version number on pages

Doc 6:

- 1) no page number, should be 1 of 1
- 2) no version number
- 3) 1st section you only mention gender reassignment, depending on where one looks there are countless genders, if you generalise this statement it will not require updating in the future or upset anyone.
- 4) 3rd section, suggest change to 'raise awareness of equality and diversity issues'.
- 5) 4th section, what does 'protected characteristics' mean? Change 'staff' to 'members'.
- 6) 5th section, what are 'protected groups'?

Doc 7:

1) no page numbers or version number

Doc 8:

1) no page numbers or version number

Doc 9:

1) no page numbers or version number

Doc 10:

1) no version number on pages

Doc 11:

1) no page numbers or version number

General:

1) Is it not possible for SBC to set up and administrate a general Community Council website which every CC minutes and agendas are posted so that anyone can access.

2) Neither Duns CC or anyone else I have spoken to have any idea what 'protected groups' or 'protected characteristics' mean. Why do you use such language which no-one understands? If you insist then a definition is required.

Jim Carnie,
Secretary,
Duns Community Council.

SBC PROPOSED CHANGES TO COMMUNITY COUNCIL SCHEME – HCC COMMENTS

- 1.3 Should this include something about the requirement for SBC to apportion part of their budget each year, for expenditure on community initiatives, under the Community Empowerment Act?
- 2.3 Liquor Licence Applications – HCC has not since at least September 2019 (the initial election date for the majority of current members) received any email through our Hawick CC Gmail account regarding these applications for our comments. The paragraph goes on to say that HCC needs to contact Scottish Forestry for Forestry Applications – how are we actually made aware of such applications? Since 2019 we have never been involved in responding to any forestry applications.
- 4.1 Why does there need to be any restriction in the number of co-opted members? We are a voluntary body and maximum numbers on board gives more input/output.
- 4.3 There are 9 Protected Characteristics – and this only lists 7 – Pregnancy & Maternity; and Marriage & Civil Partnership are missing. Is there a reason for this?
- 8.1 A person seeking election to a CC can be nominated by a Proposer and Secunder who are resident in our area **and** are on the Electoral Roll, yet at 5.1 a candidate being co-opted on, can only be so proposed and seconded by a CC member. This means that anyone new to the town, who is interested in joining a CC and who is unlikely to know anyone on the CC to propose or second them, could only be considered at election time? What different checks are perhaps done in these instances?
- 8.2 Does this include co-option? How would a CC check?
- 11.2 Payment to Secretary/Treasurer – what is the difference between being allowed to pay for an ‘external’ person to act as secretary or treasurer and paying them, as opposed to members of HCC taking on that role and being paid? Whilst it is ok to claim expenses, can it be clarified if that includes time spent on the role, as opposed to expenditure on stationery, stamps etc. HCC considers it should be left to CCs to pay if they so wish and can afford.
- 11.7 Is it maximum number of elected members (as stated by SBC for each CC) or one-third of actual serving members at the time of any meeting?
- 11.10 Renewing registration with ICO – the first sentence is confusing as it implies that a CC needs to register whereas in fact SBC does this on behalf of CCs and pays associated costs, as outlined at 16.4 of the Training Handbook.

Also CCs need to **demonstrate** compliance with DP legislation, which is a minefield, and whilst some guidance notes have been provided, actual face-to-face training on expectations and likely scenarios would be welcomed.

- 12.1c There must be at least 3 meetings held in any 12-month period, to be convened at intervals of not more than **six** months – how is this possible?

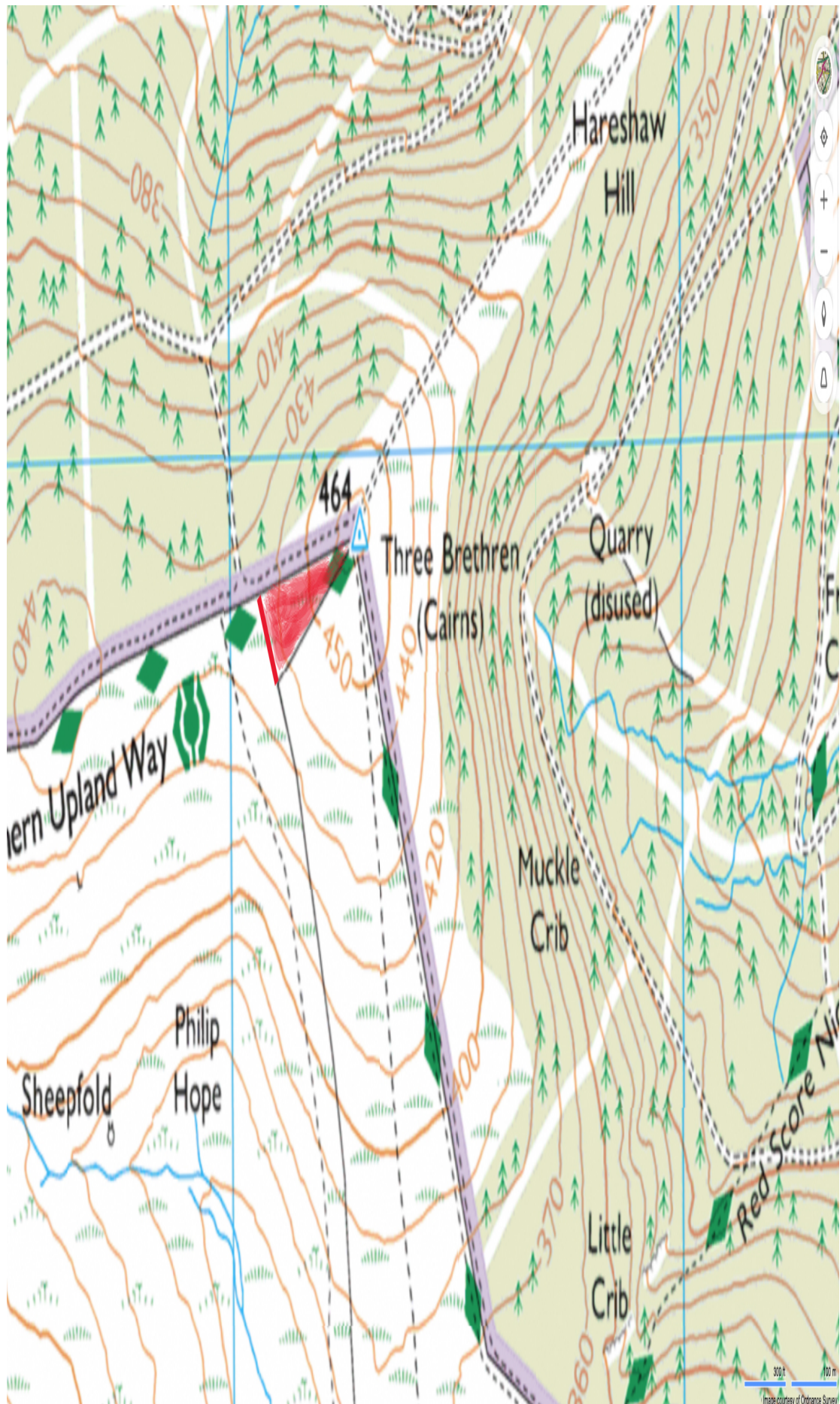
Scottish Border Community Council Scheme

Comments/suggestions from Reston and Auchencrow community council

- Doc 1 Community Council Training Handbook- **although the document can be useful, it appears a little repetitive and confusing. Suggestion would be to refresh the existing handbook initially created by the SBCCN.**
- Doc 2 Community Council Election Handbook- **No comment**
- Doc 3 Community Council Constitution (example)-Term of Office **7.1 max of three years- presently we operate on a four-year term and have found this to be most suitable in achieving goals and aspirations for large projects, to reduce the term would mean less chance of achieving long term goals-our preference therefore is to remain on a four-year term.**
- **16.4** The Community Council shall keep an accurate record of its receipts and payments and the Treasurer or other nominated office-bearer shall prepare annually an Abstract of Accounts (on the basis that the financial year runs from 1 April to 31 March of each year). **The books and Abstract of each Community Council shall be scrutinised by an auditor/independent examiner (who shall not be a member of the Community Council), duly appointed from year to year for that purpose by the Community Council following approval by the Scottish Borders Council.** A copy of the approved Abstract for each Community Council shall be submitted to the Director Resilient Communities at Scottish Borders Council following on from their approval at the Annual General Meeting. **Remove the wording auditor as this implies an accountant- community council cannot afford to employ one.**
- Doc 4 Community Council Standing Orders - example. **No Comment.**
- Doc 5 Complaints Procedure example- **STAGE 2 – INVESTIGATION BY ANOTHER COMMUNITY COUNCIL-this we do not support, we feel that dealing with a neighbouring community council is something that should be dealt with by paid SBC officers, not fellow community councillors, we believe this can cause alienation, between neighbouring community councils. Community councillors have sufficient pressure already upon them in carrying out their volunteering work for the communities- we do not support this investigation process. We welcome the policy and procedure for complaints, however only if SBC officers are willing to undertake the investigation process.**
- Doc 6 Community Council Equalities Statement 2023 – example- **No comment**
- Doc 7 Community Council Privacy Notice – example-**No comment**
- Doc 8 GDPR Briefing document for Community Councils-**No comment.**
- Doc 9 Community Council Documentation Retention Schedule-**we welcome this information.**
- Doc 10 Financial Management Best Practice Guidance-**4. Annual Accounts**
Community Councils are required to produce a set of annual **audited** accounts for approval at the AGM. These should consist of a Balance Sheet and an Income and Expenditure Account. **Audited** accounts are accounts which have been reviewed by an appropriate person and a statement produced. Among the other things an **auditor** will look for are the following: **preference would be to change the wording from Audited to examined, audited implies an accountant has examined the accounts.**
- Doc 11- Following the Public Pound Code of Practice for CCs- 2.1The Code is applied to all grants, donations, subscriptions and payments to any groups or organisations made by a Community Council from public funds where the amount of Community Council funding is £50 or more.- **due to the recent review of the community council admin fund it was proposed to remove this code- we would prefer that this was to**

remain, as we have donated/supported local people/organisations in start-up's . removing this code would mean we can no longer support small schemes.

- **Doc 12-Community Councils and the Planning System Guidance May 2018- we welcome this brief although disappointed that this was published in 2018 and this is the first sight of this document.**



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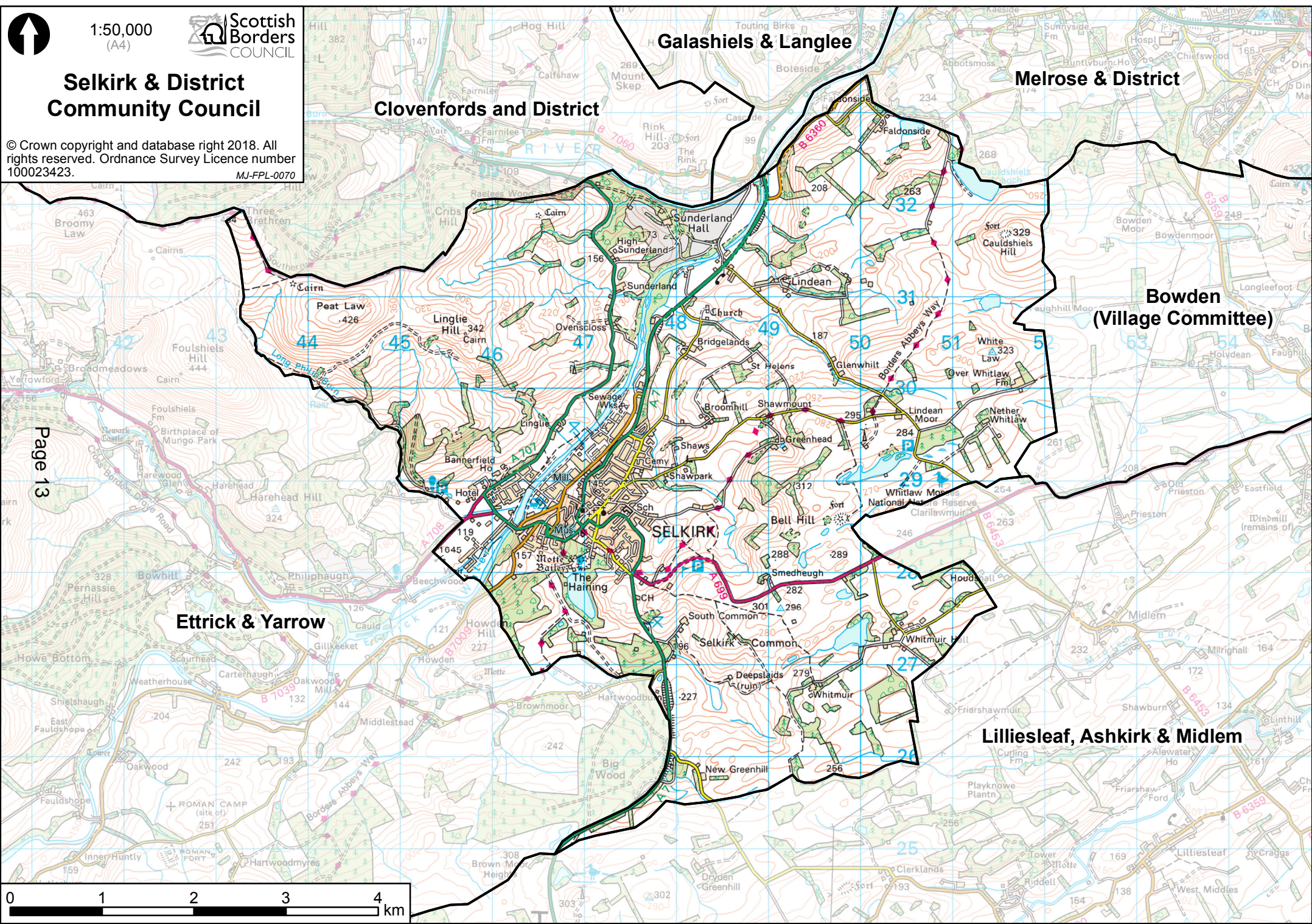


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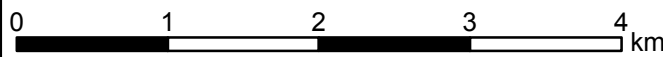


Selkirk & District Community Council

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Page 13



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Responses from Peebles Community Council to the consultation regarding the review of the SBC Community Council Scheme.

AS SBC SCHEME FOR COMMUNITY COUNCILS: The 23-page documents is a summary of the following papers.

1. Training Handbook for Community Councils

AS I contacted SBC to ask for clarification of the term 'enabling chairman' and received the following reply :

Hi Anne

I am collating all the responses and questions for Nuala McKinlay and they will be responded to after the deadline in mid-January

Many thanks

Caroline

Caroline Smith

I passed Sections 14 and 15 to Graham to review. I have no further comments to add to this document.

GM Sections 14 and 15:

1. Expenditure mentions audit fees which is incorrect description.
2. Expenditure should include honoraria to paid office holders.
3. At point 14.3 it mentions 2 signatories to the bank account. This is inconsistent with the policy of not being able to sign a cheque to yourself.
4. At 14.5 it states that all expenditure should be approved in advance by the Community Council. This is totally impractical. The treasurer's job would be impossible if every single item of expenditure had to be approved in advance. The treasurer needs discretion to approve payments with the agreement of the co-signatory to the bank account.

2. Guide for Community Council Elections

AS It's good to have such clear guidance and a timeline to follow.

3. Constitution

AS I am happy with the proposed Constitution though there are several changes from our existing Constitution.

4. Standing Orders

AS I am happy with the document Standing Orders and have noted where they differ from our existing Standing Orders – Section 2.1 The Chairman must sign the Minutes when approved, and Section 4.3 "Meetings of the Community Council can be held virtually,

provided appropriate arrangements are put in place to allow virtual participation not only by all Community Councillors but also by the public.”

5. Complaints procedure

FR Page 1, no.3: Anonymous complaints will not be accepted. [This is good in my opinion]

Page 2, no.5: How to make a complaint. [This information can be added to our new website. There are timeframes we ought to familiarise ourselves with, otherwise a commonsense, easy to follow, step by step process. Let's hope we never need it!]

It is very similar to the Policy already in place, slightly more robust.

6. Community Council Equalities Statement

FR All good. No comments.

7. Community Councils Privacy Notice

FR All standard. However, we may need to utilise the "blind" email distribution lists or seek permission from each member that their email address can be seen and shared.

8. Data Protection Briefing Document

FR We will need to ensure we delete ex-councillors' information. We should agree a retention time limit. We should also regularly audit personal data and information we hold and clear it out.

Newsletter mailing lists [not sure if what constitutes a newsletter?]

They recommend using blind copy distribution lists unless we have the consent of all individuals. [as I mentioned above]

1. We should check regularly if anyone no longer wants to receive newsletters. [what about putting a "if you want to unsubscribe from this mailing list, please let the Secretary know..." on our sign off signature space?]
2. If we are publishing a newsletter, no personal info (names, adds, tels, emails, etc) should be published. They recommend we hold a list of those who have consented.

Minutes

Community Councillors, SBC Council Officers and the Police expect their names to be in the public domain. It is recommended, as good practice, that the **Chair advises the meeting before starting that the Minutes may be published with names and should anyone have concerns these can be considered.**

References to members of the public during meetings - should not put their names in the public domain. "...it should be highlighted that should a member of the public who is attending the meeting makes reference to another individual that they should be dissuaded from doing so".

I recommend adding a sentence or two, after Peter declares the Minutes will be recorded, at the start of every meeting setting down the guidance for personal information and that it should not be declared nor minuted, unless already in the public domain? That would cover us.

9. Community Council Documentation Retention Schedule

AS I am surprised at how short a time is recommended that we keep Minutes – 5 years. Also complaints – 1 year. **PM**: I agree and think complaints should be at least 3 years.

10. Financial management Best Practice Guidance

GM See in particular point 3

1. There are a number of references on the first page to auditing and the auditor. These comments are incorrect as community councils are not subject to an audit but an accounts examination. An audit has a specific legal meaning, being a more detailed process and the use of this terminology is misleading.
2. **Banking information.** It is suggested that a cheque signatory should not sign a cheque which is payable to them. This could cause practical problems in obtaining signatures. Surely the second signature is an adequate safeguard.
3. **Honoraria Payments.** This rule that members of the community council cannot receive honoraria would decimate the operation of our community council. Both our secretary and minute secretary receive honoraria which are a small recompense for the many hours of work they put in. To adhere to this rule either they would have to be removed as members of the community council or elsewe would have to find other non-members to take on these roles. Past experience would suggest that this would be very difficult and I am concerned that this could lead to the complete collapse of our CC.
4. **Good Practice Checklist.** Is an annual budget drawn up and approved by the Community Council? In my opinion this is impractical and unnecessary.
5. **Receipt of Funds.** Are all incoming cheques, online payments and cash recorded immediately? With online payments you often do not know of receipt until the next bank statement is received so it is impossible to record them "immediately".
6. **Controls over Expenditure.** It is implied that all expenditure should be authorised by the membership of the Community Council but it is not clear what this means. Does this require a vote of the members at meetings. If this means the whole membership then this is totally impractical. In order to ensure prompt payment of bills it is essential that the treasurer should have some discretion to make payment without running them past the whole membership. Remember there is the safeguard that payments need 2 signatures.
7. **Online Banking.** Does all online expenditure have authorisation from the Community Council membership in advance of transactions? See point 6 above. This is totally impractical and removes the benefit of online banking. Treasurers are appointed by the membership and need to have delegated authority to be able to carry out their role. Do they know how difficult it is to find office bearers? Tying one hand behind their back will only make this harder!

11. Following the Public Pound

GM No comments to make.

12. Community Councils and the Planning System

PM The document “Community Councils and the Planning system” is an excellent and extremely useful piece of work.

- It would be useful if it included a short section that detailed all the sub-fixes to the planning reference numbers, e.g., PPP, FUL, LBC, etc.
- Nowhere in the document are “Place Making” or “Town Action” Plans mentioned.
- **Local Place Plans** are a new type of plan introduced by the Planning (Scotland) Act 2019, which gives communities the opportunity to create proposals for the development and use of land in their place¹²³⁴. The core focus of these plans should be on the development and use of land, such as housing land allocation or the design of new public green space¹. Local Place Plans are community-led plans that set out a community's aspirations for its future development⁴⁵. Once registered by the planning authority, they are taken into account in the preparation of the relevant local development plan⁵. The aim of these plans is to enhance engagement in development planning and empower communities to play a proactive role in defining the future of their places³⁵. The Scottish Government is yet to provide guidance on how the development of Place Plans will be carried out⁴.

Review of the Scottish Borders Community Council Scheme

Dear Ms McKinlay,

With reference to your email of 2nd November 2023 requesting comments on the draft papers produced as a result of the Review of the Scottish Borders Community Council Scheme, Walkerburn and District Community Council fully supports the approach taken by the review team and wishes to offer congratulations to all those involved. We also hope that the results of the review will become policy as quickly as possible.

There is widespread ignorance of the role of Community Councils, but we firmly believe that they are essential for the health of local democracy. Citizen spaces and public consultations are often ignored by most citizens unless the issue is of personal and/or immediate interest, but a locally elected body which can genuinely seek wider community views and work with local councillors to raise local issues appropriately, strengthens democracy and provides a safe space for community debate.

The documents produced are lengthy, but the examples give clear guidance and are easy to use. Most of the detail will only be of direct interest to people who are already serving on a Community Council, and we will probably only use our own Constitution to encourage people to apply for election. However, we consider it important to have the detail, especially Document 1, available to all members and to the public.

Other than to say that we hope the Planning Advice note will be updated soon, we have no objection to any of the drafts. We were delighted to see the change from the last draft on the position of co-opted members and we see the logic of allowing those co-opted into a vacancy to have a vote pending the next election cycle.

Changes to Community Council Boundary. We stated in our January 2023 response to the previous draft that we had looked carefully at our boundary, and had consulted with some residents living close to the current boundary. We still believe that there are grounds for making a small change to our south- east boundary to include the small group of dwellings around Elibank Estate (Elibank House, Elibank Lodges, Elibank Cottage and The Bothy). These houses are in the EH43 postcode area, as are the majority of houses within the WDCC area, and the local Community Development Trust covers the EH43 area. Our current boundary includes the single house at Scrogbank which is on the edge of the Elibank group. Beyond the Elibank group there is a considerable distance before the next dwelling which is in a different post code. The Elibank estate houses are currently within Clovenfords CC area and we informed Clovenfords CC last year of our proposal for this change of responsibility.

Finally, in spite of the temptation to correct grammar and to make other editorial points, all our members are agreed that this is an excellent piece of work which should be progressed to adoption as quickly as possible.

Yours sincerely,

Peter Waller
Chairman, Walkerburn and District Community Council

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Walkerburn and District Community Council

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Ms Nuala McKinlay
Director, Corporate Governance
Scottish Borders Council
Scottish Borders Council Headquarters
Newtown St Boswells
Melrose TD6 0SA

12th January 2024

Dear Ms McKinlay,

Ref: Review of the Scottish Borders Community Council Scheme

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Kind regards,

Lesley Thornton
Secretary, Walkerburn & District Community Council