

# Public Document Pack



## SCOTTISH BORDERS COMMUNITY COUNCIL SCHEME REVIEW WORKING GROUP THURSDAY, 18 MARCH 2021

A MEETING of the SCOTTISH BORDERS COMMUNITY COUNCIL SCHEME REVIEW

WORKING GROUP will be held VIA MS TEAMS on THURSDAY, 18 MARCH 2021 at 6.00 pm

J. J. WILKINSON,  
Clerk to the Council,  
11 March 2021

<b>BUSINESS</b>		
1.	<b>Welcome</b>	
2.	<b>Apologies for Absence</b>	
3.	<b>Order of Business</b>	
4.	<b>Minute</b> (Pages 3 - 12) (a) Consider Minute of Meeting held on 21 January 2021. (Attached) (b) Matters arising – Qualification and Disqualification for candidates in local government elections. (Details attached)	
5.	<b>Other Authorities' Community Council Schemes</b> Consider any specific points or areas arising from other Local Authorities' Community Council Schemes. (Copies of other Local Authority Schemes and Scottish Government Model Scheme published on 8 February 2021)	
6.	<b>Scottish Borders Community Council Scheme</b> (Pages 13 - 34) Continue consideration of current Scheme. (Attached)	
7.	<b>Next Meeting</b> <ul style="list-style-type: none"><li>Thursday 27 May 2021 at 6.00 p.m.</li></ul>	
8.	<b>Any Other Business</b>	

## NOTES

**Members are reminded that, if they have a pecuniary or non-pecuniary interest in any item of business coming before the meeting, that interest should be declared prior to commencement of discussion on that item. Such declaration will be recorded in the Minute of the meeting.**

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### **Membership of Committee:-**

SBC Councillor R. Tatler (Chairman)

#### Berwickshire

SBC Councillor H. Laing

Community Councillor L. Inglis

Community Councillor D. Russell (sub)

#### Cheviot

SBC Councillors E. Robson

Community Councillor M. Ladds

Community Councillor S. Turnbull (sub)

#### Eildon

SBC Councillor G. Edgar

Community Councillor J. Cleghorn

Village Committee Member J. Calvert (sub)

#### Teviot & Liddesdale

SBC Councillor W. McAteer

Community Councillor C. Knox

Community Councillor P. Kerr (sub)

#### Tweeddale

SBC Councillor S. Haslam

Community Councillor J. Taylor

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Please direct any enquiries to Jenny Wilkinson, Clerk to the Council

Tel: 01835 825004 Email: [jjwilkinson@scotborders.gov.uk](mailto:jjwilkinson@scotborders.gov.uk)

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**SCOTTISH BORDERS COUNCIL  
SCOTTISH BORDERS COMMUNITY COUNCIL SCHEME REVIEW  
WORKING GROUP**

MINUTES of Meeting of the SCOTTISH  
BORDERS COMMUNITY COUNCIL  
SCHEME REVIEW WORKING GROUP held  
Via MS Teams on Thursday, 21 January  
2021 at 6.00 pm

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Present:- SBC Councillor R. Tatler (Chairman)  
Berwickshire  
SBC Councillor H. Laing  
Community Councillor L. Inglis  
Cheviot  
SBC Councillors E. Robson  
Community Councillor M. Ladds  
Eildon  
SBC Councillor G. Edgar  
Teviot & Liddesdale  
SBC Councillor W. McAteer  
Community Councillor C. Knox  
Community Councillor P. Kerr (sub)  
Tweeddale  
SBC Councillor S. Haslam  
Community Councillor J. Taylor

Apologies:- Community Councillor J. Cleghorn.  
In Attendance:- Chief Legal Officer and Clerk to the Council.

1. **WELCOME AND INTRODUCTIONS**

The Chairman, Councillor Tatler, welcomed everyone to the meeting and explained that as there had been a change of Portfolio holders in the Council since the last meeting, he had now replaced Councillor Aitchison as Chair of the Working Group, being the Portfolio holder for Community Development and Localities.

2. **MINUTE**

Copies of the Minute of the last meeting of the Working Group, held on 19 September 2019, had been circulated. The work of the Group had been delayed due to the Covid pandemic. Councillor Robson asked for clarification of the membership of the Working Group, referring to a request from the Scottish Borders Community Council Network (SBCCN) to have a representative join the Working Group, and asking whether this request would need to be considered by full Council. The Chairman confirmed his understanding was that the report to Council in March 2019 had agreed to the establishment of the Working Group and its membership. The Community Councils in each Area Partnership locality had been asked to agree a representative and a substitute representative for the Working Group. The Clerk to the Council confirmed that any change in membership would need to be referred back to Council as a recommendation by the Working Group. The papers for the Working Group were circulated to every Community Council, including the SBCCN, and the meetings were livestreamed to allow anyone to make comment. The Community Council representatives would feed back to the Community Councils in their particular area. Comm. Councillor Kerr confirmed that he was a member of the core group of the SBCCN. No member of the Working Group proposed any change to membership.

## **DECISION**

**AGREED to approve the Minute of 19 September 2019, including confirming the Terms of Reference for the Working Group.**

### **3. SCOTTISH BORDERS COMMUNITY COUNCIL SCHEME 2014**

- 3.1 With reference to paragraph 4 of the Minute of 19 September 2019, copies of the current Scottish Borders Community Council Scheme of Establishment, along with the Scottish Government Model Scheme for the Establishment of Community Councils, Model Constitution and Model Standing Orders. The Clerk to the Council advised that there was no statutory timeline for the review of the Scheme but hoped that a new Scheme would be approved by Council by the end of 2021. This would depend on the amount of work required, resources available and the deployment of staff to aid in Covid recovery. In response to a question about the lack of a substitute representative for Community Councils in the Tweeddale area, it was explained that at the time the Working Group was set up only one nomination had been received from the Tweeddale Area. Mr Peter Maudsley had volunteered to be the substitute member, and the Chairman confirmed that a substitute representative from Tweeddale could be included in the Working Group with the agreement of all Tweeddale Community Councils. With regard to how the Community Council representatives communicated with the Community Councils in their area, this was a matter for each area. Some areas already had a network set up of Community Council Chairs/representatives where information could be cascaded. The Clerk then referred to other local authorities Schemes for Community Councils and how best these may be reviewed by the members of the Group.

## **DECISION**

### **AGREED:**

- (a) **the Clerk to the Council would send the contact details of Mr Taylor to the Tweeddale Community Councils so they could liaise with him on any matters for consideration by the Working Group;**
  - (b) **the Clerk to the Council would put each of the other local authority Community Council Schemes onto Modern.gov and provide members of the Group with the link to these; and**
  - (c) **members of the Working Group would look at the other Schemes – in particular those from rural areas - to see what should be considered for inclusion in the new Scottish Borders Scheme.**
- 3.2 Members of the Group then gave a first look at the Scottish Borders Community Council Scheme:

#### **(a) Purpose**

In response to a question about whether other local authority Schemes mentioned the Community Empowerment (Scotland) Act 2015, the Clerk to the Council advised that from memory, some Schemes did but not all.

## **DECISION**

**AGREED that when reviewing other local authority Community Council Schemes, members of the Group would check on any mention of the Community Empowerment (Scotland) Act 2015.**

#### **(b) Procedure for Establishment**

Cllr Tatler referred to the number of electors in Community Council areas and the Clerk to the Council advised that some other areas had formulae for calculating numbers that members of the Group may wish to consider. Some flexibility for numbers would be needed to take account of the rural diversity of the Borders. In response to a question about the inclusion of Bowden Village Committee within the

Scheme, the Clerk to the Council advised that there had been correspondence from the Village Committee some time ago suggesting that a Community Council may be formed which could take the place of the Village Committee within the Scheme. The Clerk would write to the Village Committee asking them to confirm what they wished to do.

(c) **Composition**

The Group considered the various membership options within Community Councils, including SBC Elected Members and co-opted members. There was discussion on diversity and equalities and how best to increase representation on Community Councils while taking account of elections being free and fair to all. There were also difficulties in rural communities with people on a number of groups such as village hall committees, out of school clubs, etc. so if these functions and funding were brought together under a Community Council it may help as the number of hours people could volunteer their time was limited. Consideration may also be given to communities of interest. Consideration should also be given to allowing more people being co-opted onto a Community Council towards the end of a term of office. One of the reasons for co-opting was to give people experience of the Community Council. While co-option may be a way to be more inclusive, care would need to be taken that competition cliques did not form between different community groups. As Community Councils took on more tasks and responsibilities they needed an expansion of skills. However, as volunteers, there was a question of available time which unfortunately tended to mean that many Community Councillors were retired, although young people were being encouraged onto Community Councils in some areas. There was the option of co-opting people with relevant skills to help a Community Council without that person becoming a full Community Council member with voting rights.

(d) **Method of Co-option**

Some further detail was needed on this, as there needed to be some justification as to why someone was being co-opted and not simply approached "to make up numbers". An expression of interest by the individual could allow the Community Council to demonstrate why they were being co-opted.

(e) **Casual vacancies**

The Clerk to the Council advised that further detail was required here which could be picked up from other local authority Schemes.

(f) **Term of Office**

The Group considered the length of term of office and that election dates/terms of office were different, varying at the moment between 3 and 4 year terms. A 3 year term may not seem as daunting for people and encourage them to stand for election to the Community Council.

**DECISION**

**AGREED that the term of office of a Community Council should change to 3 years.**

(g) **Nominations**

In response to a question about disqualification from standing for election not having served a prison sentence (including a suspended sentence) of 3 months or more in the five years before an election, the Chief Legal Officer confirmed that that mirrored the requirement for local authority elections but was not a legal requirement. In relation to bankruptcy restriction orders, the Chief Legal Officer confirmed that this could also be added in but again there was no legal requirement. The requirement for having a proposer and seconder on the nomination form for Community Council elections was also discussed, with concern expressed if someone could

propose/second more than one candidate which could potentially lead to cliques forming.

**DECISION**

**AGREED that officers would provide details of the nomination requirements for local authority elections to the next meeting of the Group.**

(h) **Returning Officer**

It was noted that further details would need to be added about the Returning Officer once the Community Council had been established.

3.3 There followed discussion on also using the Scottish Government model Scheme as well as looking at those of other local authorities.

4. **DATES OF FUTURE MEETINGS**

The Group considered potential dates and timing of future meetings, agreeing that at least 6 weeks should be allowed to give the Community Council representatives time to speak with the other Community Councils in their area.

**DECISION**

**AGREED that the next meetings of the Group would be at 6:00 p.m. via MS Teams on Thursday 18 March and Thursday 27 May 2021.**

5. **ANY OTHER BUSINESS**

No other items of business were raised. Cllr Tatler thanked everyone for their contributions and the meeting drew to a close.

***The meeting concluded at 7.05 pm***

## **Local Government Election – Qualification and Disqualification for Candidates**

The qualifications for being nominated as a candidate for the Council are that the candidate:

- must have attained the age of 18 at the day of nomination
- You must be a British citizen, qualifying Commonwealth citizen, a citizen of the Irish Republic or a qualifying foreign national and not require leave to remain in the United Kingdom, and
- must not be subject to any legal incapacity.

They should not be disqualified from being nominated as a candidate –

- by reason of any of the disqualifications set out in Section 31(1), (2), and (3) of the Local Government (Scotland) Act 1973
- by reason of holding a politically restricted post (within the meaning of Part I of the Local Government and Housing Act 1989)
- by reason of Section 12 of the Local Governance (Scotland) Act 2004 or
- by reason of Section 19 of the Ethical Standards in Public Life etc. (Scotland) Act 2000

### **It is a criminal offence for someone to make a statement as to their qualification as a candidate which they know to be false.**

In terms of Section 29(1) of the 1973 Act, a person can be nominated as a candidate for election as a member of a local authority if:-

- (a) he/she is, on the day on which he/she is nominated as a candidate, a local government elector for the area of the local authority; or
- (b) he/she has, during the whole of the twelve months preceding the day on which he/she is nominated as a candidate, occupied as owner or tenant any land or other premises in the area of the local authority; or
- (c) his/her principal or only place of work in the twelve months preceding the day on which he/she is nominated as a candidate has been in the area of the local authority; or
- (d) he/she has, during the whole of the twelve months preceding the day on which he/she is nominated as a candidate, resided in the area of the local authority.

Persons who have been sequestered, or convicted of any offence within the past 5 years resulting in a prison sentence of not less than 3 months, or convicted of a corrupt or illegal practice under the Representation of the People Act 1983, are disqualified from membership of a Scottish Council.

## **Local Government (Scotland) Act 1973: Disqualifications**

### **31 – Disqualifications for nomination, election and holding office as member of local authority**

(1) Subject to subsections (2) and (3) below, a person shall be disqualified for being nominated as a candidate for elections as, or for being elected, or for being a member of a local authority if –

- (a) *[This has been removed and no longer applies]*
- (b) he is a person whose estate has been sequestered by a court in Scotland or who has been adjudged bankrupt elsewhere than in Scotland; or
- (ba) he is subject to a bankruptcy restrictions order;

- (c) he has, within five years before the day of nomination, or election or since his election, as the case may be, been convicted in the United Kingdom, the Channel Islands, the Isle of Man or the Irish Republic of any offence and has had passed on him a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine; or
- (d) he is disqualified for being elected or for being a member of that authority under Part III of the Representation of the People Act 1983.

(1A) A person is disqualified for being a member of a joint board if he or a partner of his holds any paid office or employment (other than the office of convener or depute convener of the board) or other place of profit in the gift or disposal of the board.

(2) Where a person is disqualified under subsection (1) by reason of his estate having been sequestrated, the disqualification shall cease if and when –

- (a) the sequestration of his estate is recalled or reduced; or
- (b) he is discharged under or by virtue of the Bankruptcy (Scotland) Act 2016.

(3) Where a person is disqualified under subsection (1) above by reason of having been adjudged bankrupt, then –

- (a) if the bankruptcy is annulled on the ground that he ought not to have been adjudged bankrupt or on the ground that his debts have been paid in full, the disqualification shall cease on the date of the annulment;
- (b) if he is discharged with a certificate that the bankruptcy was caused by misfortune without any misconduct on his part, the disqualification shall cease on the date of his discharge; and
- (c) if he is discharged without such a certificate, his disqualification shall cease on the expiration of five years from the date of his discharge.

(3A) A person who is for the time being an officer or employee of the Strathclyde Passenger Transport Authority or an employee of a subsidiary of that Authority shall be disqualified for being appointed or for being a member of the Strathclyde Passenger Transport Authority.

(3B) In subsection (1)(ba) above, “bankruptcy restrictions order” means –

- (a) a bankruptcy restrictions order made under section 155 of the Bankruptcy (Scotland) Act 2016;
- (b) *[This has been removed and no longer applies]*
- (c) a bankruptcy restrictions order made under paragraph 1 of Schedule 4A to the Insolvency Act 1986; or
- (d) a bankruptcy restrictions undertaking entered into under paragraph 7 of that Schedule.

**[The following section refers to candidates who are elected. Holders of posts mentioned in this section, except those in subsection (6), are not disqualified from standing for election, but must resign in compliance with this section]**



### **31A – Disqualification of officers, employees etc. from remaining members of local authority**

(1) A person elected a member of a local authority who is the holder of any paid office or employment or other place of profit in the gift or disposal of the authority is disqualified from remaining a member of the authority after the relevant day unless the person complies with subsection (2) below.

(2) A person complies with this subsection by resigning, not later than the relevant day, from that office, employment or, as the case may be, other place of profit.

(3) A resignation effected in pursuance of subsection (2) above terminates the holding of the office, employment or other place of profit with immediate effect notwithstanding any contrary provision in the terms and conditions under which the office, employment or place of profit is held.

(4) In this section the “relevant day” is the day first occurring after that on which the person elected a member of the local authority was, under the local elections rules, declared to be so elected (no account being taken of a day which is a Saturday or Sunday or Christmas Eve, Easter Monday, or a bank holiday in Scotland under the Banking and Financial Dealings Act 1971 or a day appointed for public thanksgiving or mourning in Scotland).

(5) In subsection (4) above, the “local elections rules” means an order made under section 3(1) of the Local Government (Scotland) Act 2004.

(6) This section does not affect section 1 (disqualification and political restriction of certain local government officers and staff) of the Local Government and Housing Act 1989.

### **Local Government and Housing Act 1989: Political restrictions of officers and staff**

#### **1 – Disqualification and political restriction of certain officers and staff**

(1) A person shall be disqualified from becoming (whether by election or otherwise) or remaining a member of a local authority if he holds a politically restricted post under that local authority or any other local authority in Great Britain.

Ethical Standards in Public Life etc. (Scotland) Act 2000: Enforcement

#### **19 – Action on finding of contravention**

(1) Where the members of the Commission conducting a hearing find that a councillor has contravened the councillors’ code or a member of a devolved public body the members’ code, they shall impose one of the following sanctions—

- (a) censuring, but otherwise taking no action against, the councillor or member;
- (b) suspending, for a period not exceeding one year, the councillor’s or member’s entitlement to attend one or more but not all of the following—
  - (i) all meetings of the council or body;

- (ii) all meetings of one or more committees or sub-committees of the council or body;
  - (iii) all meetings of any other body on which the councillor or member is a representative or nominee of the council or body;
  - (c) suspending, for a period not exceeding one year, the councillor's or member's entitlement to attend meetings of the council or body and of any committee or sub-committee thereof and of any other body on which the councillor or member is a representative or nominee of the council or body;
  - (d) in the case of a councillor, disqualifying the councillor for a period not exceeding five years, from being, or from being nominated for election as, or from being elected, a councillor;
  - (e) in the case of a member of a devolved public body, removing the member from membership of the body and disqualifying the member, for a period not exceeding five years, from membership of the body.
- (2) A period of suspension imposed under subsection (1)(b) or (c) above which would continue until or after the day of the next following ordinary election of councillors shall end at the beginning of that day.
- (3) Disqualification imposed under subsection (1)(d) above—
- (a) has the effect of vacating the councillor's office; and
  - (b) extends to the councillor's membership of committees and sub-committees of the council of which the councillor was a member and any joint committee, joint board or other body on which the councillor is a representative or nominee of the council.
- (4) Where the members of the Commission disqualify, under subsection (1)(d) above, a councillor who is also a member of a devolved public body otherwise than as a representative or nominee of the council, they may also, in respect of that membership, remove and disqualify that person under subsection (1)(e) above and, where the councillor is also the Water Industry Commissioner for Scotland, they may also impose the sanction in section 25(12)(b) below.
- (5) The members of the Commission, on removing and disqualifying a member of a devolved public body under subsection (1)(e) above, may—
- (a) where the member is a councillor, disqualify that person under subsection (1)(d) above;
  - (b) direct that the removal from membership and disqualification apply also in respect of any other devolved public body of which the member is a member; or
- (6) The members of the Commission may, on imposing a suspension under subsection (1)(b) or (c) above on a member of a devolved public body, direct that any remuneration or allowance deriving from membership of the body that would be payable to the member be not paid or be reduced as they direct.
- (7) The powers to remove and disqualify a person from membership of a devolved public body under subsections (4) and (5)(b) above are exercisable as respects that body only after the members' code applicable to that body first has effect.

- (8) The Commission shall, after consulting such association of local authorities and any such other bodies or persons as it thinks fit, issue guidance to councils on the extent to which a councillor should engage in activities (other than those mentioned in subsection (1)(c) above) which are, or may be perceived to be, the activities of a councillor during a period of suspension.

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**LOCAL GOVERNMENT ETC. (SCOTLAND) ACT 1994**  
**SCOTTISH BORDERS COUNCIL**

**SCHEME FOR THE ESTABLISHMENT OF COMMUNITY COUNCILS**

**1.0 Introduction**

- 1.1 Community Councils were first established in Scotland following the Local Government (Scotland) Act 1973. Thereafter, the Local Government etc. (Scotland) Act, 1994, which produced the current system of unitary local authorities, made provision for the continuation of community councils.

Scottish Borders Council, in accordance with the terms of Section 22 of the Local Government etc. (Scotland) Act 1994 has adopted the following Community Council Scheme for the operation of Community Councils within the Scottish Borders Council area, and has revoked the previous Scheme adopted by Scottish Borders Council in 2007, with effect from midnight on 26 June 2014.

**2.0 Purpose of Community Councils**

- 2.1 In addition to any other purpose which a Community Council may pursue, the general purpose of a Community Council shall be to ascertain, co-ordinate and express to the Local Authority for its area, and to public authorities, the views of the community which it represents in relation to matters for which those authorities are responsible, and to take such action in the interests of that community as appears to it to be expedient and practicable.

**3.0 Procedure for Establishment of Community Councils**

- 3.1 In the event of not less than 20 electors in any one of the community council areas listed in Schedule 1 to this Scheme, and shown delineated on the maps (numbered 1 - 67) attached to the principal copy of this Scheme, with the exception of Bowden, for the reasons stated in Clause 3.2 below, making written application for the establishment of a Community Council for that area in accordance with this Scheme, the Scottish Borders Council shall, within six weeks from the date of the petition, invite nominations and thereafter, if necessary, organise an election for the establishment of a Community Council for that area.
- 3.2 Bowden Village Committee having requested that it be accepted by Scottish Borders Council in its present title and existing form of Constitution to act instead of a Community Council for the area No. 22 on the attached Map, comprising Bowden Village and its surrounding district, being part of Bowden Parish, Scottish Borders Council has determined that no Community Council is necessary for that area for the following reasons, namely:-
- a) that the Committee, being composed of members duly elected at a public meeting, is truly representative of the community which it serves;
  - b) that the Committee has shown Scottish Borders Council sufficient proof of its involvement with and activities on behalf of the community to

indicate that the establishment of a Community Council in addition to that Committee is unnecessary;

- c) that the Committee holds considerable funds and other property, including Bowden Common Land extending to 26 acres or thereby, in trust for the benefit of the community; and
- d) that the Committee gains certain advantages from its charitable status not presently enjoyed by Community Councils.

#### **4.0 Composition of Community Councils**

4.1 Community Councils shall be composed of:

- (a) the number of Members specified for that Community Council as detailed in Schedule 1 who have been elected in the manner detailed below;
- (b) the Scottish Borders Councillors for the area covered by the Community Council or part of it, who shall have ex officio membership of that Community Council during their period of office for the Authority but shall have no entitlement to vote or hold office in the Community Council. No Member of the Scottish Borders Council may simultaneously be a member of a Community Council other than in an ex officio capacity; and
- (c) may include co-opted members in the following circumstances:-
  - (i) Community Councils may co-opt further members with skills or knowledge which the Community Council consider would be of assistance to the Community Council in carrying out its functions. Such co-opted members shall not have voting rights and shall not hold office, and may be under eighteen years of age. Members co-opted for this purpose will serve for such time as decided by the Community Council at the time of their co-option or until the Community Council decide that their services are no longer required; and
  - (ii) When the elected membership is less than the maximum number of elected members (specified in Schedule 1) but is equal to, or more than one-half of that number, or where casual vacancies arise during a term of office, Community Councils may co-opt people who would be eligible for election to the Community Council as members in order to make up that number. However, the number of co-opted members cannot at any one time be more than one quarter of the maximum number of elected members (specified in Schedule 1). Members so co-opted may serve until the next ordinary election to the Community Council, qualifying for full voting rights after attending 3 meetings or 6 months after co-option (whichever is shorter).

#### **5.0 Method of Co-option of Members**

5.1 A proposal to co-opt a person or persons to a Community Council under paragraph 4.1 (c)(ii) requires to be included on the Agenda for the appropriate

meeting of the Community Council, this shall include the name and address of the person proposed to be co-opted, together with (where appropriate) that person's number on the current Electoral Register, and the names of the proposer and seconder who shall be elected Members of the Community Council.

## **6.0 Casual Vacancies**

6.1 A casual vacancy shall be deemed to arise in any of the following circumstances:

- (a) on the day when a member ceases to be entered in the Electoral Roll for the area covered by the Community Council;
- (b) on the expiry of a period of six calendar months during which a member of a Community Council has failed to attend a meeting of that Community Council, or of any Committee or other body constituted by such Community Council, unless leave of absence has been granted or other reason accepted by that Community Council; or
- (c) upon the receipt by a Community Council of a written notice of resignation from a member.

## **7.0 Term of Office**

7.1 Elected members of a Community Council shall serve for a term of office specified in the Constitution of that Community Council, subject to that term of office being a minimum of two years and a maximum of four years, and shall be eligible for re-election.

## **8.0 Nomination of Candidates**

8.1 A person seeking election to a Community Council must be aged 16 years or over and appear on the Electoral Roll for that Community Council area at the date of being proposed for membership of the Community Council or be able to provide proof of eligibility as advised by the Returning Officer. Each candidate must be nominated by a Proposer (who may be the candidate) and a Secunder, both being persons whose names appear on the Electoral Roll for the respective Community Council's area, or sub-division of that area, where applicable.

8.2 A person seeking election to a community council must not have served a prison sentence (including a suspended sentence) of three months or more in the five years before the election.

8.3 No person shall be entitled to propose or second more than one candidate.

8.4 When instructed to do so by the Scottish Borders Council in the case of initial elections, and by the Community Councils themselves once established, the Returning Officer shall give public notice of an invitation to submit nominations for membership of Community Councils, using the nomination form agreed by Scottish Borders Council, attached in Schedule 2. The nomination period shall not be less than 14 and not more than 28 days, 7 days will be allowed following this period for withdrawals.

- 8.5 Where the number of valid nominations, after any withdrawals, is more than the number of Community Council members specified in Schedule 1, a contested election shall be held in accordance with the procedure prescribed in this Scheme.
- 8.6 Where the number of valid nominations, after any withdrawals, is equal to, or more than half, the number of Community Council members specified in Schedule 1, the Returning Officer shall give public notice that the candidates validly nominated have been elected to the Community Council.
- 8.7 Where the number of valid nominations, after any withdrawals, is less than half the number of Community Council members specified in Schedule 1, no Community Council will be established and the Returning Officer shall give public notice that no Community Council shall be formed at that time. In such event, no further application for the establishment of a Community Council for that area shall be considered until the expiry of a period of at least three months after the nomination period started. In the event of such an application being received after that period, the Returning Officer shall issue a further invitation to submit nominations and the electoral process shall be repeated. If, after this second invitation, the number of valid nominations is still less than half the number of Community Council members specified in Schedule 1, no further applications for the establishment of a Community Council for that area shall be considered until the expiry of a period of at least six months after the date of public notice of that second invitation.
- 8.8 When a contested election takes place the Returning Officer shall publish, at least seven days before the election details of the election procedure to be employed, including the names and addresses of candidates and the place, dates and times fixed for the conduct of the poll and the count.

## **9.0 Returning Officer**

- 9.1 The Returning Officer for the first election to a Community Council shall be the Service Director for Customers & Communities of the Scottish Borders Council, or their appointed nominee and, for all elections after the establishment of a Community Council, shall be the person appointed by the Community Council concerned, subject to approval by the Service Director for Strategy & Policy. The Returning Officer for a Community Council election shall not be an elected member of that Community Council or a candidate in that election to that Community Council.

## **10.0 Voting Arrangements**

- 10.1 People included in the section(s) of the Electoral Roll for the Community Council and who would be entitled to vote in a Local Government election at the date of the Community Council election shall be entitled to vote in Community Council elections for that area.
- 10.2 Voting in a Community Council election shall take place by way of a secret procedure. The method of election shall be determined by the Returning Officer in consultation with the Community Council where applicable as:-



- (a) by ballot box, at a designated polling place or places using a simplified version of the prescribed procedure for Local Authority elections; or
- (b) by post in accordance with Scottish Borders Council guidelines.

An alternative of postal voting in connection with method a) above, shall be available at the discretion of the Returning Officer. There will be no provision for the issuing of poll cards or voting by proxy for either method of election.

- 10.3 The ballot papers to be used in Community Council elections shall be laid out in a style approved by the Scottish Borders Council.
- 10.4 Each eligible elector shall have available to him a number of votes equal to the aggregate number of seats being contested at that election, subject to the proviso that where a Community Council area is divided into sub-divisions, each eligible elector shall, unless the Constitution to be adopted by the Community Council determines otherwise, be entitled to vote only for candidates standing for seats within the sub-division in which the eligible elector resides, the number of votes available to each eligible elector in that event being equal to the number of seats being contested within that sub-division; and no elector shall cast more than one vote for any one candidate.
- 10.5 The hours of polling for ballot elections shall be determined for each Community Council area by the Returning Officer, taking account of local circumstances for the first election to a Community Council. The ballot shall be open for a minimum of four hours in total between 8 a.m. and 8 p.m, unless where voting is by post, in which case the period shall be determined by the Returning Officer. The number of vacant seats available shall be filled by the corresponding number of candidates receiving the highest number of votes. In the event of more than one candidate receiving the same number of votes for the last available seat or seats on the Community Council, the successful candidate(s) will be decided by lot.
- 10.6 A returned ballot paper shall contain only such information as is requested to identify the candidates chosen by the elector. Any ballot paper which at the counting of the votes is found to:-
- (a) contain any mark or other writing implying that the number of votes being cast is more than the designated number available to the elector; or
  - (b) contain any mark or other writing implying that more than one vote for any one candidate is being cast; or
  - (c) identify the elector,
- shall be deemed to be a spoilt paper, and shall be disregarded in the count.
- 10.7 The Returning Officer shall appoint and instruct persons to supervise the ballot or open the postal votes as appropriate and to conduct the count.
- 10.8 The Returning Officer, immediately after the counting of votes, shall complete a return to the Scottish Borders Council and the Community Council concerned, containing the names and addresses of members elected, details of the number of votes cast for each candidate, the number of ballot papers issued and

returned, the number of spoilt ballot papers and any other information as to the conduct of the election which may be required by Scottish Borders Council.

10.9 The Returning Officer shall, as soon as possible after the election, give public notice of the names and addresses of members elected.

## **11.0 General Provisions**

11.1 Within twenty-one days of the election of a Community Council where possible, the Returning Officer shall hold the first public meeting of the Community Council. At this meeting, which shall be chaired, until a Chairperson has been elected, by the Returning Officer or his nominee (who shall normally be an ex officio member, if available) the Community Council shall elect from its eligible members a Chairperson, to be known by such title as the Community Council decide, subject to approval of that title by the Scottish Borders Council, and such other office-bearers as the Community Council shall deem necessary. Office-bearers that are eligible for re-election, shall be elected or re-elected at the Annual General Meeting of the Community Council, or otherwise in accordance with the Constitution to be prepared in line with this Scheme.

11.2 Every Community Council may appoint a Secretary and a Treasurer (the offices may be combined) who shall hold office and may be eligible for re-appointment in accordance with the provisions of the Constitution to be prepared in line with this Scheme. The Secretary and Treasurer (but no other office-bearers) may be appointed from outwith the membership of the Community Council and may receive such remuneration as the Community Council may determine from the resources available to them, there being no extra funding available from the Scottish Borders Council for this purpose. Such appointees from outwith the membership shall be entitled to speak only on matters relating to their function as office-bearers and shall have no voting rights.

11.3 Following the first meeting after every election, each Community Council will lodge with the Service Director for Customers & Communities of the Scottish Borders Council a return specifying the full names, designations and addresses of the Community Council's office-bearers and Examiner(s) of their Accounts and subsequently advise, in writing, of all changes thereof.

11.4 Meetings of each Community Council shall be convened at intervals of not more than six months and at least three meetings shall be held annually, one of which shall be the Annual General Meeting. All meetings of the Community Council shall be open to members of the public. Community Councils shall comply with the principles of the Local Government (Access to Information) Act 1985 and any amending legislation, particularly in regard to the conduct of business in public unless permitted to be taken in private in terms of the Act, and also in regard to allowing sight of agenda papers and Minutes. A summary of its main provisions shall be provided to each Community Council.

11.5 Community Council members shall comply with the Scottish Borders Code of Conduct for Community Councillors, Schedule 3 of this document.

(a) Members shall be required, in advance, to declare pecuniary and non pecuniary interests relating to matters which might be under discussion

and after doing so shall take no part in their consideration. Failure to observe this may lead to suspension and repeated failure to observe may lead to expulsion.

- (b) Members shall be required to sign a declaration that they agree to abide by the Code of Conduct for Community Councillors. This shall be by way of the nomination form for elected Community Councillors and a separate declaration for those co-opted during the term of office of the Community Council.
- (c) The Community Council shall annually submit in writing its agreement to abide by the aforementioned Code of Conduct.

11.6 Only elected Community Council Members and those co-opted with full voting rights may vote at Community Council Meetings, including Annual General Meetings, the only exception being votes on the proposed contents of the Constitution and any proposed amendments, in which case all persons eligible to vote in local government elections, on the Electoral Roll for the Community Council area and in attendance at the meeting are entitled to vote.

11.7 The quorum for each Community Council shall be one third of the maximum number of elected members, subject to a minimum of three.

11.8 Every Community Council shall be able to convene special meetings in line with this Scheme, within the Community Council area for the purpose of considering matters of interest and importance, and for the purpose of agreeing or amending their Constitution.

11.9 Every Community Council shall, upon receipt of a requisition signed by twenty electors, convene a special meeting, to be held within twenty-one days of receipt of that requisition. This meeting should consider the business which must be specified in the requisition and in the notice calling the meeting. A shorter period for convening such a meeting may be specified in the Community Council Constitution,

## **12.0 Constitutions**

12.1 Within three months of the date of its first meeting, each Community Council shall draw up and submit to the Scottish Borders Council for approval, a Constitution for the regulation and management of its affairs. Each Constitution shall contain provision for the following:-

- (a) Name of the Community Council;
- (b) Size, composition, purpose, functions and quorum (as defined in paragraph 11.7 above) of the Community Council and of any Committees appointed by the Community Council;
- (c) Frequency of holding meetings, of which there shall be at least three in any twelve month period, to be convened at intervals of not more than 6 months, including provision for an Annual General Meeting, which shall be held not later than 60 days after the end of the Community Council's

financial year recognising the common election month set by Scottish Borders Council;

- (d) The Agenda for the Annual General Meeting shall include items for receiving the following, namely:-
  - (i) a report on the Council's activities for the previous year;
  - (ii) the scrutinised/approved Annual Statement of Accounts; and
  - (iii) proposals for the amendment of that Council's Constitution, where appropriate;
- (e) Rules whereby Community Council members shall be advised of the place, date and time of any meetings of the Community Council, Committees or Sub-Committees by means of written agendas, specifying the business to be conducted and sent either to their normal residence or place of work at least seven days before the due date of such meeting. Public notice shall be given by a copy of the agenda being affixed in a prominent and clearly visible position at the normal place where meetings of that Council are held and/or in such other manner or locations as may be prescribed in the Constitution. Community Councils should take proactive steps to engage with all members of the community fairly. All Community Council meetings should be held in accessible venues.
- (f) Rules for the keeping of Minutes which shall also provide that such Minutes shall be circulated to members of the Community Council not later than with the issue of the agenda for the next meeting, and that adequate arrangements shall be made for Minutes of any meeting to be available for inspection by members of the public within the Community Council's area not later than seven clear days prior to the next meeting of the Community Council;
- (g) Method and procedure for the nomination of candidates;
- (h) Term of office of members of the Community Council, recognising the common election month set by Scottish Borders Council;
- (i) Arrangements governing the election and/or appointment of office bearers and their term of office;
- (j) Appointment of ex officio (Scottish Borders Council) and co-opted members;
- (k) Procedure for filling of casual vacancies;
- (l) Holding of heritable property;
- (m) Rules or Standing Orders for the conduct of the business of the Community Council;
- (n) Provisions regulating the Finance and Accounts, including a provision specifying the financial year as running from 1 April to 31 March;

- (o) Rules to ensure that each member of the Community Council is given a copy of this Scheme at the commencement of membership, together with a copy of the Community Council's Constitution and Rules, and where applicable, Standing Orders;
- (p) Calling of extraordinary public meetings;
- (q) Rules governing alteration to the Constitution, including provision for agreement by the electors of the area at an Annual General Meeting or at a meeting convened for that purpose, prior to submission to the Scottish Borders Council for approval; and
- (r) A dissolution clause.

12.2 The Constitution to be adopted shall not conflict with the terms of this Scheme.

### **13.0 Financial Provisions**

13.1 Scottish Borders Council may provide grants for the purpose of assisting and promoting the interests of Community Councils within its area. The amount to be made available to each Community Council and the form of grant shall be at the sole discretion of the Scottish Borders Council and shall be intimated to each Community Council prior to 1st April each year. The payment of any such grant will be dependent on the receipt of annual accounts in line with paragraph 13.6 below. Any payment will be made in line with the Following the Public Pound Code of Practice once the Scottish Borders Council is content that the conditions below have been met:

- (a) The Community Council should not hold more than the equivalent of two years annual grant by way of reserves, excluding money ring fenced for specific initiatives.
- (b) The Community Council must submit in writing annually its agreement to abide with the Code of Conduct for Community Councillors in line with paragraph 11.5(c).

13.2 Community Councils may be eligible for other grants funded by Scottish Borders Council to carry out specific activities and initiatives.

13.3 In the event of any Community Council not being established, being in abeyance or becoming disestablished or dissolved, its share of any grant shall be retained by the Scottish Borders Council until such time as the Community Council is formed or re-formed, when a proportion of the grant appropriate to the portion of the Scottish Borders Council's financial year remaining shall be awarded.

13.4 Community Councils shall be empowered to raise funds for schemes, projects and other purposes within their stated objects.

13.5 All monies received by a Community Council, whether by way of grant, gift or loan, shall be applied to maintain its administrative structure and/or to further the objects of such Council.

- 13.6 Each 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. The books and Abstract of each Community Council shall be scrutinised by an independent examiner, duly appointed for that purpose, who shall not be a member of that Community Council. A copy of the approved Abstract for each Community Council shall be submitted to the Service Director for Customers & Communities of Scottish Borders Council, or other designated Scottish Borders Council official, within seven days of the Annual General Meeting.
- 13.7 The Scottish Borders Council may, so far as is reasonably and financially practicable, provide, free of charge, accommodation to Community Councils within premises under the ownership and control of the Scottish Borders Council for the purposes of holding Community Council meetings, or, where such accommodation is not available, contribute towards the hire charges incurred.
- 13.8 In the event of the disestablishment or dissolution of a Community Council for any reason, such property and funds as are vested or under the control of said Community Council at the date of disestablishment or dissolution, shall be transferred to and vested in Scottish Borders Council and shall be administered and applied by them in such manner as the Scottish Borders Council, in line with the wishes of the Community Council in the aftermentioned asset register, may determine to be for the benefit of all or part of the Community Council area, said discretion including the power of sale.
- 13.9 A Community Council may lease or acquire heritable property, the title to which shall be taken in the names of such office-bearers as may be specified in the Constitution for that purpose, as Trustees for such Community Council and their respective successors in office.
- 13.10 Each Community Council shall keep an accurate record of any assets held and where they are kept indicating its wishes for the dispersment of these assets in the event of the Community Council being disestablished or dissolved. A copy of the register, and any subsequent changes, must be submitted to the Service Director for Customers & Communities of Scottish Borders Council within twenty one days of it being agreed by the Community Council.

#### **14.0 Common Election Date**

- 14.1 Scottish Borders Council reserves the right, if they in their sole discretion so determine, to establish a common election date in each year for Community Council elections and undertake to give to the Secretary of each Community Council appropriate prior written notice of their intention to exercise this right.

#### **15.0 Mutual Exchange of Information**

- 15.1 The Scottish Borders Council will electronically send at least seven days prior to a meeting, where possible, to each Community Council within its area:-

- (a) Agendas of full Council and Committee Meetings, including relevant Area Forum Meetings;
- (b) Copies of the Minutes of the appropriate Area Forum; and
- (c) Copies of such consultative documents as the Authority may from time to time decide.

15.2 Each Community Council shall submit to the Scottish Borders Council's Service Director for Customers & Communities draft copies of the Minutes of its meetings no later than within 21 days after each meeting and copies of the agenda for the subsequent meeting of the Community Council when being issued.

## Schedule 1

### Community Council Seats

Community Council Area		Number of Elected Members	Allocation of Seats on Community Council and Sub-Division of Areas as on Map where appropriate
<b>Berwickshire</b>			
1	Abbey St. Bathans, Bonkyl and Preston	12	---
2	Ayton	12	---
3	Burnmouth	8	---
4	Chirnside	8	---
5	Cockburnspath and Cove	10	---
6	Coldingham	10	---
7	Coldstream	12	
8	Lammermuir Community Council	10	Cranshaws - 3 Seats Longformacus - 7 Seats
9	Duns	12	---
10	Edrom, Allanton and Whitsome	9	---
11	Eyemouth Town	12	---
12	Foulden, Mordington and Lamberton	11	Foulden - 5 Seats Mordington - 3 Seats Lamberton - 3 Seats
13	Gavinton, Fogo and Polwarth	10	
14	Gordon and Westruther	9	Gordon - 5 Seats Westruther - 4 Seats
15	Grantshouse	8	---
16	Greenlaw and Hume	12	Greenlaw - 9 Seats Hume - 3 Seats
17	Leitholm, Eccles and Birgham	10	Leitholm - 4 Seats Eccles - 2 Seats Birgham - 4 Seats



18	Hutton and Paxton	8	Paxton Hutton	- 4 Seats - 4 Seats
19	Reston and Auchencrow	10	Reston Auchencrow	- 7 Seats - 3 Seats
20	St. Abbs	7	---	
21	Swinton and Ladykirk	9		
<b>Ettrick and Lauderdale</b>				
22	Bowden Village Committee	6		
24	Earlston	12		
25	Ettrick and Yarrow	12		
26	Galashiels	15		
27	Heriot	6		
28	Lauderdale	12		
29	Lilliesleaf, Ashkirk and Midlem	8		
30	Maxton and Mertoun	8		
31	Melrose and District	12		
32	Newtown and Eildon	10		
33	Oxton and Channelkirk	6		
34	Royal Burgh of Selkirk and District	12		
35	St. Boswells Parish	10		
36	Parish of Stow	12	Stow Fountainhall	- 10 seats - 2 seats
37	Tweedbank	12		
<b>Roxburgh</b>				
38	Ancrum	12		
39	Burnfoot	12		
40	Crailing, Eckford and Nisbet	9		
41	Denholm and District	10		

42	Ednam, Stichill and Berrymoss	9	
43	Floors, Makerstoun, Nenthorn and Smailholm	12	
44	Hawick	15	
45	Heiton and Roxburgh	12	
46	Hobkirk	9	
47	Jedburgh	12	
48	Jed Valley	9	
49	Kalewater	12	
50	Kelso	12	
51	Lanton	5	
52	Newcastleton	12	
53	Oxnam	9	
54	Southdean	10	
55	Sprouston	7	
68	Upper Liddesdale and Hermitage	6	
56	Upper Teviotdale and Borthwick Water	10	
57	Yetholm and District	11	
<b>Tweeddale</b>			
58	Carlops	6	
23	Clovenfords and District	12	
59	Eddleston	8	
60	Innerleithen and District	12	
61	Lamancha, Newlands and Kirkurd	12	
62	Manor, Stobo and Lyne	9	
63	Royal Burgh of Peebles and District	18	

64	Skirling	6	
69	Tweedsmuir	6	
65	Upper Tweed	10	
66	Walkerburn	9	
67	West Linton	9	

**Schedule 2**  
**SCOTTISH BORDERS COUNCIL**  
**COMMUNITY COUNCIL ELECTIONS 20XX**

-----**COMMUNITY COUNCIL (note 1)**

**NOMINATION FORM**

Please read notes overleaf and then complete Sections 1 and 2 in typescript or **BLOCK CAPITALS**

**SECTION 1 - CANDIDATE**

SURNAME (AS IN ELECTORAL REGISTER)	OTHER NAMES (AS IN ELECTORAL REGISTER)	MR/MRS/ MS/ MISS	ELECTORAL NUMBER ( <b>NOTE 2</b> )		ADDRESS (AS IN ELECTORAL REGISTER)
			Letter or Number	Electoral Number	

**SECTION 2 - PROPOSER AND SECONDER**

	SURNAME (AS IN ELECTORAL REGISTER)	OTHER NAMES	MR/MRS/ MS/MISS	ELECTORAL NUMBER ( <b>NOTE 2</b> )		ADDRESS (AS IN ELECTORAL REGISTER)
				Letter or Number	Electoral Number	
Proposer						
Secunder						

WE hereby nominate as a candidate for election the person named in Section 1 above, who, to the best of our knowledge and belief is eligible for such election, as a member of

..... Community Council

**(Note 1)**

in the ..... Sub-Division.

**(Note 3)**

**PLEASE NOTE THAT YOU MAY ONLY PROPOSE OR SECOND ONE PERSON**

Signature of Proposer .....

Signature of Secunder .....

**ACCEPTANCE OF NOMINATION**

I, the nominee for election, named in Section 1 above, consent to be nominated as a candidate for the abovementioned Community Council and, if elected, will accept office as a member of the said Community Council and agree to comply with the Code of Conduct for Community Councillors.

I confirm that I have not served a prison sentence (including suspended sentence) of three months or more in the five years before the election.

Signature of Candidate

.....Date.....

**NOTES**

- 1. Please insert the name of the Community Council
- 2. Please insert in the first column the distinctive number and letter if any, from the Register of Electors (e.g.) 21A. The number will be found next to "Polling District". Please insert in the second column the elector number which can be found next to the elector's name in the Register of Electors. These numbers will be provided by the Returning Officer, on receipt of the nomination form, if left blank.
- 3. Where, in terms of the new Scheme for the Establishment of Community Councils, a Community Council area consists of a number of sub-divisions the name of the sub-division should be given.

**QUALIFICATIONS FOR ELECTION**

A person seeking election to a Community Council must be aged 16 or over and appear on the Electoral Register for the Community Council area at the date of being proposed for membership of the Community Council, or provide proof of eligibility as advised by the Returning Officers. . Each Candidate shall be nominated by a Proposer (who may be the candidate) and a Seconder, both being persons whose names appear in the said Electoral Register for the respective Community Council area, or sub-division of that area, where applicable..

COMPLETED NOMINATION FORMS SHOULD BE LODGED WITH

.....  
.....

**By no later than**.....

**Schedule 3  
Scottish Borders Council**

**CODE OF CONDUCT FOR COMMUNITY COUNCILLORS**

**1 GENERAL**

- 1.1 Community Councillors are expected to show the highest standards of personal conduct in the performance of their duties at all times.
- 1.2 Their duty is to the whole community served by their Community Council. This Code should be used to guide their conduct as a Community Councillor. It is their responsibility to make sure that they are familiar with this Code and that their conduct meets it.
- 1.3 Community Councillors should promote and support these principles by leadership and example, always acting in such a way as to protect public confidence in the Community Council.

**2 SERVICE TO THE COMMUNITY**

- 2.1 Community Councillors have a duty to act in the interests of the local community which they have been elected to represent. They also have a duty to act in accordance with the remit of Scottish Borders Council's Scheme for the Establishment of Community Councils as set out under the terms of the Local Government (Scotland) Act 1973).
- 2.2 They have a duty to establish and reflect, through the Community Council, the views of the community as a whole, on any issue, irrespective of personal opinion.
- 2.3 They should make sure that they are, within reason, accessible to their local community. Various mechanisms to allow the general community to express their views, i.e. internet, social media, suggestion boxes, community surveys and opinion polls should, where possible, be made available.

**3 DUTY TO UPHOLD THE LAW**

- 3.1 Community Councillors must uphold the law and act on all occasions in line with the public trust placed in them.
- 3.2 Community Councillors have a responsibility to play their part in ensuring that the Community Council uses its resources prudently and in accordance with the law.

**4 COMMUNITY INTEREST**

- 4.1 Community Councillors should act to assist the Community Council, as far as possible, in the interests of the whole community that it serves.

## **5 SELFLESSNESS**

- 5.1 Community Councillors should act only in the public interest. They should never use their position as a Community Councillor to gain for themselves, their family or friends, any financial benefits, preferential treatment or other advantage, or to grant such benefits, treatment or advantage improperly to others.

## **6 INTEGRITY AND PROPRIETY**

- 6.1 Community Councillors should not put themselves in a position where their integrity is called into question by any financial or other obligations. As well as avoiding actual impropriety they should avoid any appearance of it.

## **7 HOSPITALITY**

- 7.1 Community Councillors should record all gifts and hospitality, with a monetary value above £50, received in connection with membership of the Community Council. They should not accept gifts or hospitality that might reasonably be thought to influence, or be intended to influence, their judgement; or where to do so could bring discredit upon the Community Council.

## **8 DECISIONS**

- 8.1 Whilst Community Councillors may be influenced by the views of others, including particular interest groups, it is their responsibility to decide what view to take, and how to vote, on any question which Community Councillors have to decide.

## **9 ACCOUNTABILITY AND STEWARDSHIP**

- 9.1 Community Councillors are accountable through the community they serve for their actions and their part in reaching decisions and must submit themselves to whatever scrutiny is appropriate to their office.
- 9.2 Community Councillors should individually and collectively make sure that annual accounts are produced showing the financial undertakings of the Community Council. They must also make sure that all resources are used efficiently, effectively and fairly.

## **10 OPENNESS**

- 10.1 Community Councillors should be as open as possible about all their actions and their part in reaching decisions. They should seek to ensure that reasons are given for decisions of their Community Council.

- 10.2 When dealing with the media, members of the public, or other not directly involved in the Community Council all Community Councillors should make sure that that an explicit distinction is made between the expression of their personal views and opinions from any views or statement made about or on behalf of the Community Council.

## **11 CONFIDENTIALITY**

- 11.1 Community Councillors should ensure that confidential material, including material about individuals, is handled appropriately with regard to the public interests and is not used for private purposes.

## **12 PARTICIPATION**

- 12.1 Community Councillors may take part in the consideration of questions which come before the Community Council unless they have a private interest, which would cause their participation to raise questions as to their impartiality.

## **13 DECLARATIONS**

- 13.1 Community Councillors **must** declare any private interests relating to their Community Council duties and should take steps to resolve any conflicts arising in a way that protects the public interest. They should make relevant declarations of interest at meetings of the Community Council, Sub-Committees or Working Groups to which they are appointed, and in all circumstances where they are active in their role as a Community Councillor.
- 13.2 If Community Councillors have a private interest in a matter before their Community Council, they should consider whether it is appropriate for them to declare this interest and withdraw from discussion and decision making on that matter. In considering this they should have regard to the following criteria:-
- 13.2.1 That members of the public might reasonably think the private interest could influence them; and
- 13.2.2 That members of the public might reasonably think the private interest creates a real danger of bias on the part of the Community Councillor because it affects them or someone connected with them, more than any other person or more than the generality of other persons affected by the matter.
- 13.3 In the case of a private interest that meets neither of these criteria, there may be no reason to declare the interest or to take any further action.



- 13.4 In the case of a private interest which meets criteria 1, Community Councillors should declare their interest but they may decide to participate in the discussion and decision making on the matter.
- 13.5 In the case of a private interest which meets criteria 2, Community Councillors should declare their interest and withdraw from the discussion and decision making on the matter.
- 13.6 In the case of a private interest which meets both criteria 1 & 2 and if this private interest is of a continuing nature, it may be that it would cause a Community Councillor to withdraw from the consideration of business on such a frequent basis that they would be of little value to their Community Council. In this case, they should not seek to serve as a Community Councillor.
- 13.7 Private financial interests may be more likely to be of a nature that meet the above criteria however private non-financial interests may also meet the criteria. The fundamental principle to bear in mind is that Community Councillors should not do anything that they cannot justify to the public in terms of this code.

## **14 RESPECT**

- 14.1 Community councillors must respect their fellow Community Councillors and those that they represent, treating them with courtesy, respect and in a non-discriminatory manner at all times.

## **15 RELATIONS WITH SCOTTISH BORDERS COUNCIL COUNCILLORS**

- 15.1 Community Councillors should respect the role of Scottish Borders Council Elected Members and treat them in a way that engenders mutual respect at all times.

## **16 RELATIONS WITH SCOTTISH BORDERS COUNCIL EMPLOYEES**

- 16.1 Community Councillors should respect the role of officers of Scottish Borders Council who are directly responsible to Scottish Borders Council and treat them in a way that engenders mutual respect at all times.

## **17 POLITICAL AFFILIATIONS**

- 17.1 Whilst Community Councillors are free to have political affiliations, the Community Council itself is not a political body but exists to represent the interests of the whole community. Therefore, in participating in the business of the Community Council, the concern of Community Councillors must be to represent the interests of their community and not those of a particular political party or group.

## **18 PERSONAL CONDUCT**

- 18.1 Community Councillors' personal conduct should be such as not to bring the Council into disrepute. They should act courteously to fellow Community Councillors, Scottish Borders Council Elected Members and Officers, members of the public and other bodies.