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SCOTTISH BORDERS COMMUNITY COUNCIL SCHEME REVIEW WORKING GROUP THURSDAY, 27 MAY 2021

A MEETING of the SCOTTISH BORDERS COMMUNITY COUNCIL SCHEME REVIEW
WORKING GROUP will be held VIA MS TEAMS on THURSDAY, 27 MAY 2021 at 6.00 pm

J. J. WILKINSON,
Clerk to the Council,

21 May 2021

BUSINESS	
1.	Welcome
2.	Apologies for Absence
3.	Order of Business
4.	Minute (Pages 3 - 8) Consider Minute of Meeting held on 18 March 2021. (Attached)
5.	Other Authorities' Community Council Schemes (Pages 9 - 30) Consider any specific points or areas arising from other Local Authorities' Community Council Schemes which were missing from Scottish Borders Scheme and should be included. (Copies of other Local Authority Schemes and Scottish Government Model Scheme published on 8 February 2021; Scottish Borders Scheme attached.)
6.	Next Steps Consider: <ul style="list-style-type: none">• Amended Scottish Borders Scheme• Wider informal consultation process• Statutory consultation process
7.	Next Meeting Consider date for next meeting of the Working Group.
8.	Any Other Business

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.

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

Community Councillor A. Wilson (sub)

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

Tel: 01835 825004 Email: jjwilkinson@scotborders.gov.uk

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

MINUTE of Meeting of the SCOTTISH BORDERS COMMUNITY COUNCIL SCHEME REVIEW WORKING GROUP held Via MS Teams on Thursday, 18 March 2021 at 6.00 pm

Present:- SBC Councillor R. Tatler (Chairman)

Berwickshire

SBC Councillor H. Laing

Community Councillor L. Inglis

Cheviot

SBC Councillor E. Robson

Eildon

SBC Councillor G. Edgar

Teviot & Liddesdale

SBC Councillor W. McAteer

Community Councillor C. Knox

Community Councillor P. Kerr (sub)

Apologies:- SBC Councillor S. Haslam

In Attendance:- Chief Legal Officer, Clerk to the Council, Democratic Services Officer (F. Henderson).

1. WELCOME

The Chairman, Councillor Tatler, welcomed everyone to the meeting and explained how the meeting would be conducted both through MS Teams and via the livestream, reminding everyone that no recordings of the meeting were allowed.

2. MINUTE

2.1 Copies of the Minute of the meeting of the Working Group held on 21 January 2021, had been circulated.

DECISION

AGREED to approve the Minute.

2.2 With reference to paragraph 3.1 of the Minute, regarding a substitute Community Council representative for the Tweeddale area, Councillor Tatler advised that the Tweeddale Community Councils were currently looking at their representation on the Working Group and were due to meet at the end of the month to select a second representative.

DECISION

NOTED.

2.3 With reference to paragraph 3.2(g) of the Minute, details of the qualification and disqualification for candidates in local government elections had been circulated.

DECISION

NOTED.

3. OTHER AUTHORITIES' COMMUNITY COUNCIL SCHEMES

3.1 With reference to paragraph 3.1(b) of the Minute of 21 January 2021, copies of other Local Authority Schemes for Community Councils and the Scottish Government Model Scheme had been published on Modern.gov on 8 February 2021. Members of the Group highlighted some areas for further consideration:

(a) **East Lothian**

- Cross section of community included along with support for equalities and should include that in SB scheme
- Views of community take precedence over Community Councillors' personal interest and should include that in SB scheme
- Offer of basic office services for Community Councils through East Lothian Council offices
- Development and training for Community Councillors
- Community Council wards

(b) **Dumfries & Galloway**

- Community Council enquiry service with single point of contact for all whether there was any issue any Community Council wanted to raise with the Council and criteria around that
- Ensuring involvement/engagement with wider community and inclusivity
- Development and training
- Complaint handling procedure

(c) **Argyll and Bute**

- Community Empowerment (Scotland) Act reference
- Equalities statement
- Complaints procedure
- Co-option scheme – Scottish Borders scheme needs simplified

(d) **Moray**

- Incorporates Community Planning Partnership with reference to Community Planning partners

3.2 Further areas were then discussed.

- A question was posed about whether Community Councils committing to an event/survey on an annual basis with their community.
- The Glasgow Scheme made comment about Community Councillors being elected and, however appointed, Community Councillors should get the same status.
- In terms of the Community Councillors' Code of Conduct, this should apply to everyone within a meeting, including ex-officio members. Meeting protocols and the Code should be adhered to by everyone in attendance whether these meetings were in person, on-line or a hybrid version. There were a number of ways to manage behaviour. The Community Councillors' Code of Conduct was not enforceable by SBC. Community Councillors should renew annually their commitment to the Code of Conduct.
- The use of on-line banking should be included and encouraged. Eyemouth CC was currently piloting this.
- The numbers of members of Community Councils needed further consideration to devise a formula which could take account of geographic area, population, urban and rural.
- Associate members – these could be brought on to the Community Council to discuss specific topics but remain ex-officio and non-voting.
- Grant levels – consideration should be given to this, with some areas giving a list of what was approvable.
- The legal liability of Community Councils developing further should be considered, perhaps in terms of participatory budgeting and the potential consequences for individual Community Councillors.

- Sub-committees of Community Councils should also be added to the Scheme, although it was recognised these could be in Community Council constitutions.
- Community Councils should operate with the same financial year i.e. 1 April to 31 March
- To try to ensure equal representation, should Community Councils have wards? Some Community Councils in the Borders had split their area in two to ensure representation was equal. Some concern expressed that this could cause difficulties in getting people to stand for election to the Community Council.

4. SCOTTISH BORDERS COMMUNITY COUNCIL SCHEME

4.1 With reference to paragraph 3 of Minute of 21 January 2021, members of the Group continued consideration of the current Scottish Borders Community Council Scheme:

(a) **Nomination of Candidates**

Reference was made to those serving prison sentences and whether they should be prohibited from standing for election to a Community Council. The Chief Legal Officer advised that a check would need to be made on the Rehabilitation of Offenders legislation. Consideration should also be given to those who were bankrupt/sequestrated.

DECISION

AGREED that the Chief Legal Officer and Clerk to the Council would bring a proposal to the next meeting on exclusions from standing for election to or being a member of a Community Council.

(b) **Voting Arrangements**

No suggestions were made for any changes.

(c) **General Provisions**

Paragraph 11.9 of the Scheme referred to special meetings of Community Councils being held on receipt of a requisition signed by 20 electors, and a meeting of the Community Council would then be held to consider the business. However, this may need reworded as a Community Council could consider business but not reach a decision, so it would be better to include a resolution/outcome to be sought within the requisition, and perhaps “consider, discuss and resolve” could be added. Assurance was also needed that this clause could not be removed in a Community Council constitution. It was felt that paragraph 12.2 (The constitution to be adopted shall not conflict with the terms of this Scheme) should cover that. There was further discussion on whether such a requisition could include giving the public the right to vote on a “no confidence” motion in the Community Council and dissolve it. This may be included as part of a complaints procedure.

DECISION

AGREED to revisit the wording in paragraph 11.9 of the Scheme regarding requisitions for special meetings of Community Councils.

(d) **Constitutions**

Paragraph 12.1(b) referred to committees of Community Councils and this needed to be expanded either here or elsewhere in the Scheme.

(e) **Financial Provisions**

No specific changes were proposed at this time.

(f) **Common Election Date**

Councillor Robson referred to Yetholm Community Council which had a rolling set of elections to keep experienced Community Councillors and therefore maintain

continuity. This should be built in to the current Scheme as an option. The Group did not favour having a common election date for Community Councils but a common date within each Area Partnership locality may be helpful in encouraging greater participation, should all Community Councils in the area agree to this.

(g) **Mutual Exchange of Information**

Councillor McAtee asked about the role of SBC in publishing Community Council details, agendas and Minutes and the Clerk to the Council advised that while agendas and Minutes were received, read and stored by SBC, they were not published, as that was left to each Community Council. A request was made for help in this area from CGI. In response to a question about a Community Council enquiry system, the Clerk advised that the Community Council mailbox communitycouncils@scotborders.gov.uk was used for the receipt of agendas and Minutes and also any enquiries, both from Community Councils and also members of the public. This could be added to the Scheme.

DECISION

AGREED that the Clerk to the Council would check on the option of CGI providing some support to Community Councils.

(h) **Schedule 1 – Community Council Seats**

The Group discussed the need for a formula/reason for the numbers of members of each Community Council and also to move them to Area Partnership localities rather than the old District Council areas. Any changes to the boundaries of Community Council areas would also need to be considered and Community Councils invited to submit any proposals to the Working Group.

DECISION

AGREED to consider other Schemes and how the allocation of Community Councils members was agreed.

(i) **Schedule 2 – Community Council Elections**

The Clerk to the Council asked whether it would be helpful to produce an Elections Handbook for Community Councils, with details of the processes needed to run an election. Consideration should also be given to having this, along with any forms, available electronically.

DECISION

AGREED to consider further the development of an Elections Handbook for Community Councils.

- 4.2 The Chief Legal Officer then referred to the Local Authority Councillors' Code of Conduct which was currently under review. Some significant changes were being proposed although it would not be considered by Scottish Parliament until after the election in May 2021. Some of the key elements were around respect, including respect for the Chair. There was a suggestion that it would be good to include an equalities statement within the Code.

DECISION

AGREED to circulate a copy of the current Code of Conduct for Local Authority Councillors to members of the Group to consider what, if any, elements could be included in a Community Councillors' Code of Conduct.

5. **DATE OF NEXT MEETING**

The Group noted that the next meeting would be held on Thursday 27 May at 6:00pm. The Chairman asked that the Community Council representatives encourage the

Community Councils in their areas to discuss the current Scheme and any changes they would like included.

6. **ANY OTHER BUSINESS**

The Chairman advised that at the next meeting further consideration would be given to other Local Authority Schemes and what could be included in the Scottish Borders Scheme that was currently missing. The wider consultation process on changes would also be considered, along with a plain English/easy read version of a new Scheme.

The meeting concluded at 7.25 pm

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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 Seconder, 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 no 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 aforementioned 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 dispersement 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 Partnership Meetings;
- (b) Copies of the Minutes of the appropriate Area Partnership; 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
Berwickshire			
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	Leithholm, Eccles and Birgham	10	Leithholm - 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		
Ettrick and Lauderdale				
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		
Roxburgh				
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	Sprouton	7	
68	Upper Liddesdale and Hermitage	6	
56	Upper Teviotdale and Borthwick Water	10	
57	Yetholm and District	11	
Tweeddale			
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 (NOTE 2)	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 (NOTE 2)	ADDRESS (AS IN ELECTORAL REGISTER)
				Letter or Number Electoral Number	
Proposer					
Seconder					

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 Seconder

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.