

Public Document Pack



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

A MEETING of the SCOTTISH BORDERS COMMUNITY COUNCIL SCHEME REVIEW
WORKING GROUP will be held VIA MICROSOFT TEAMS on THURSDAY, 7 MARCH 2024 at
6.00 pm

N. MCKINLAY,
Director Corporate Governance

1 March 2024

BUSINESS		
1.	Welcome	
2.	Apologies for Absence	
3.	Order of Business	
4.	Minute (Pages 5 - 8) Consider Minute of Meeting held on 17 October 2023. (Copy attached.)	
5.	Responses from Community Councils on Informal Consultation (Pages 9 - 14) Consider responses attached from: (a) Crailing, Eckford and Nisbet (b) Duns (c) Earlston (d) Hawick (e) Hobkirk (f) Innerleithen & District (g) Kelso (h) Leitholm, Eccles and Birgham (i) Peebles (j) Reston & Auchencrow (j) Selkirk and District (k) Upper Teviotdale and Borthwick Water (l) Walkerburn & District	
6.	Scottish Borders Community Council Scheme (Pages 15 - 38) Consider amendments and comments received to date and review. (Copy	

	attached.)	
7.	<p>Scottish Borders Community Council Scheme - Additional Documents (Pages 39 - 134)</p> <ul style="list-style-type: none"> (a) Community Council Training Handbook (b) Community Council Election Handbook (c) Community Council Constitution – example (d) Community Council Standing Orders – example (e) Community Council Complaints Procedure – example (f) Community Council Equalities Statement – example (g) Community Council Privacy Notice – example (h) GDPR Briefing Document for Community Councils (i) Community Council Documentation Retention Schedule (j) Financial management best practice guidance (k) Following the Public Pound Code of Practice for Community Councils (l) Planning Guidance for Community Councils <p>(Documents attached.)</p>	
8.	<p>Timeline for Consultation</p> <p>Consider timeline for informal and then formal consultation on amended Scheme. (Extract from Local Government etc. (Scotland) Act 1994 attached)</p> <ul style="list-style-type: none"> (a) Informal consultation with Community Councils – any changes required to boundaries or membership numbers and comments on Scheme and accompanying documents (b) Meeting of CC Scheme Review WG to consider final draft document (c) Special meeting of Scottish Borders Council to approve draft document for statutory public consultation (d) Meeting of CC Scheme Review WG to consider consultation responses and amend draft Scheme as appropriate (e) Special meeting of Scottish Borders Council to amend draft Scheme if required (f) Further public consultation to make representations on amended draft Scheme if required (g) Meeting of CC Scheme Review WG to consider any further representations received if required (h) Special meeting of Scottish Borders Council to approve final Scheme for Community Councils. 	
9.	<p>Next Meeting</p> <p>Consider date for the next meeting of the Working Group.</p>	
10.	<p>Any Other Business</p>	

NOTES

1. Timings given above are only indicative and not intended to inhibit Members' discussions.
2. 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 C. Cochrane (Chair)

Berwickshire

SBC Councillor J. Anderson
Community Councillor L. Inglis
Community Councillor D. Russell (sub)

Cheviot SBC

Vacant
Community Councillor M. Ladds
Community Councillor VACANCY (sub)

Eildon

SBC Councillor E. Thornton-Nicol
Community Councillor J. Cleghorn
Village Committee Member J. Calvert (sub)

Teviot & Liddesdale

SBC Councillor A. Smart
Community Councillor C. Knox
Community Councillor P. Kerr (sub)

Tweeddale

SBC Councillor M. Douglas
Community Councillor K. Peebles
Community Councillor A. Wilson (sub)

Please direct any enquiries to Declan Hall: Tel: 01835 826556
email: declan.hall@scotborders.gov.uk

This page is intentionally left blank

**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 Tuesday, 17 October 2023
at 6.00 pm

Present:- SBC Councillor C. Cochrane (Chair)
Berwickshire
SBC Councillor J. Anderson
Community Councillor L. Inglis
Eildon
SBC Councillor E. Thornton-Nicol
Teviot & Liddesdale
SBC Councillor A. Smart
Tweeddale
SBC Councillor M. Douglas
Community Councillor K. Peebles

Apologies:- SBC Councillor P. Brown and Community Councillor M. Ladds (Cheviot),
Community Councillors J. Cleghorn and J. Calvert(Eildon), Community
Councillors C. Knox and P. Kerr (Teviot & Liddesdale)

In Attendance:- Director Corporate Governance, Participation Officer, Clerk to the Council.

1. **WELCOME**

The Chair welcomed the new members of the Group to the meeting and explained that this would pick up on the work of the previous Group members.

2. **MINUTE**

Copies of the Minute of the meeting of the Working Group held on 23 November 2021 had been circulated.

DECISION

NOTED the Minute.

3. **SCOTTISH BORDERS COMMUNITY COUNCIL SCHEME**

With reference to paragraph 6 of the Minute of 23 November 2021, copies of proposed amendments to date to the Scottish Borders Community Council Scheme which had been agreed by the Working Group, had been circulated. The proposed amendments or additions to text in the Scheme were highlighted in yellow. The Clerk to the Council talked the Group through the proposed amendments and answered questions from the members.

DECISION

NOTED the amendments highlighted in the Scheme.

4. **SCOTTISH BORDERS COMMUNITY COUNCIL SCHEME – ADDITIONAL DOCUMENTS**

4.1 Copies of the following ancillary documents to the new Community Council Scheme had been circulated:

- (a) Community Council Training Handbook;
- (b) Community Council Election Handbook;
- (c) Community Council Constitution – example;
- (d) Community Council Standing Orders – example;
- (e) Community Council Complaints Procedure – example;
- (f) Community Council Equalities Statement – example;
- (g) Community Council Privacy Notice – example;
- (h) GDPR Briefing Document for Community Councils;
- (i) Community Council Document Retention Schedule;
- (j) Financial Management Best Practice;
- (k) Following the Public Pound Code of Practice for Community Councils; and
- (l) Planning Guidance for Community Councils.

4.2 The Clerk to the Council advised that the above documents were separate to the Scheme but would hopefully provide guidance and examples of good practice for Community Councils. By having these separate documents, it would mean they could be updated as necessary without having to go through the statutory consultation process which was required to amend the Scheme itself. Members discussed the documents and made the following comments –

- Planning guidance document - references to SESPLAN would need to be removed from the Planning Guidance document
- Training Handbook – it would be better either for a more simplified language version to be produced or consider splitting the handbook into more manageable sections so it was not off-putting for new Community Councillors
- It would be helpful to have templates for Agendas and Minutes

4.3 In response to a question around SBC Officer and resource assistance to Community Councils on windfarm or forestry applications, the Director Corporate Governance advised that she would need to speak to the Democratic Services Officers and Planning Officers out-with the meeting to see what, if any, support would be available.

DECISION NOTED.

5. **TIMELINE FOR CONSULTATION**

Details of the timeline for consultation with Community Councils both informally and formally had been given on the agenda for the meeting.

DECISION

AGREED to send out the amended Scheme and ancillary documents to all Community Councils for informal consultation, including asking for any requests for changes to number of members of a Community Council or to Community Council boundaries, with comments due back by mid-January 2023.

6. **NEXT MEETING**

The Group agreed that the next meeting would be scheduled for Tuesday 23 January 2024, starting at 6:00 pm. The meeting would be held online via Teams and livestreamed to the public

7. **ANY OTHER BUSINESS**

No other items of business were raised.

The meeting concluded at 7.00 pm

This page is intentionally left blank

Response Rec'd	Community Council	Contact	Comments	Docs amended with comments
15/11/23	Hobkirk	Ron Swinton	Taking the last first CC are consulted for liquor licence applications, I don't recall this happening for our local pub.	yes 30/01/24
15/11/23	Hobkirk	Ron Swinton	7.4 in training handbook states minimum 6 meetings + AGM annually SB Community Council Scheme 2014 12.1 says frequency at least 3 meetings including AGM.	yes 30/01/24
15/11/23	Hobkirk	Ron Swinton	Training book 7.7 AGM states includes Secretary annual report (also in Doc 3 Constitution) but not in SBCC Scheme	yes 30/01/24
15/11/23	Hobkirk	Ron Swinton	Scheme does not mention abiding by Community Councillors Code of Conduct.	yes 30/01/24
15/11/23	Hobkirk	Ron Swinton	In Doc 2 elections the Agenda of the first meeting doesn't include the undertaking by CCLrs to abide by Code of Conduct, whereas it does in Doc 4 Standing orders.	yes 30/01/24
15/11/23	Hobkirk	Ron Swinton	Doc 6 Equalities Statement who signs this? when and how often? Should it be included at 5.1 in Standing Orders?	yes 30/01/24
15/11/23	Hobkirk	Ron Swinton	Doc 7 Privacy Notice where do we use this. I can't find it referred to elsewhere.	yes 30/01/24
15/11/23	Hobkirk	Ron Swinton	Doc 9 CC document retention where is this referred to in Training handbook or Scheme?	yes 30/01/24
16/11/23	Peebles	Anne Snoddy	I have been looking at the 24 page Training Manual. On pages 6 and 7 there are references to 'the Formal Chair' and 'the Enabling Chair'. The Enabling Chair does not appear in the earlier list of office bearers. Does that mean these two roles are the responsibility of just one person, the Chair?	yes 30/01/24
24/11/23	Duns	Jim Carnie	Doc 6 - Equalities Statement, uses terms neither myself or the Chair understand - 'protected characteristics' and 'protected groups'. As far as we are concerned every person is treated with the respect they are entitled to, if some people have special needs then these will be acted upon in full.	yes 30/01/24
30/11/23	Selkirk	Andy Murray	I assume the instruction in the attached to 'Destroy' Minutes after 5 years is to do with GDPR. However, in our case, the Minutes archive, which goes back to 2008, includes a lot of the local history which we are loath to obliterate. Might it be acceptable to keep, say, hard copies in a locked filing cabinet somewhere?	yes 30/01/24
23/12/23	Innerleithen & District	Daniel Davis Wood	In general, we think that these documents provide good guidance for the conduct of business by community council. The guidance on declarations of conflicts of interest is particularly welcome. Individual members have commented that Document 1 is especially useful for us (given our need to clarify and formalise the respective roles of IDCC and the Innerleithen Community Trust) as are Documents 7 and 8. One member also wondered whether there was another document to deal with procurement of goods and services by a community council using public money. This might have been dealt with in Document 11, but there remains a grey around this topic. A typo was noted on Document 5, item 4.1, bullet 4: "muses" should be "misuses".	yes 30/01/24
28/12/23	Leitholm, Eccles and Crailing	Bob Hope	Leitholm Eccles & Birgham letter 28.12.24.docx	yes 30/1/24 also on general enquiries
			The amount of paperwork involved in this consultation was mind numbing and felt excessive for the management of teams of volunteers prepared to give of their time to consult with and support their communities.	general enquiries

03/01/24	Crailing, Eckford and Nisbet	Dinah Faulds	10 SBC Community Council (CC) Scheme Proposed Amendments Consultation. The committee had no comments on Documents 2,5,6,7,8,9,10,11. On the 'Scottish Borders Community Council Scheme' the meeting comments were summarised as: Para 11.4 On-line meetings – It was felt that SBC should make available a system for on-line meetings so that each community council is not required to purchase its own package Schedule -1 It was agreed that 9 elected members was adequate for CENCC and that there should be no classification by village area. It was noted that a contradiction exists between para 11.4 of the Scheme, Doc 4 Standing Orders (1.1), and the Training Handbook (Doc1 para 7.4). The first states "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 AGM. The Standing Orders (1.1) Page 5 of 6 state:- "at least 3 meetings per annum, excluding the AGM" . The Handbook states at 7.4 "The frequency and timing of ordinary meetings will be determined by the CC, subject to a minimum of 6 ordinary meetings and one AGM being held each year." This needs to be standardised. The Chair questioned whether it is necessary to state in Standing Orders (1.1) the months when meetings are to take place, as this is restrictive and does not allow for changes, for practical reasons e.g. Hall unavailability. Doc 9 – Retention Policy There was some disquiet over the necessity to destroy documents e.g. Minutes after a fixed period of time. The use of historical minutes has been useful to researchers and this could not happen if no records were retained. Would SBC hold records for longer and pass on for heritage storage? What would be the consequences should CCs hold on to data for longer than the stated periods? Doc 12 is out of date. It was noted that it is due for review. The committee wished to highlight the proposed boundary change that was forwarded to Jenny Wilkinson in August 2023 for consideration by this review. (An email was received on 21 August 2023 that confirmed Ms Wilkinson would pass the request to the SBC CC review team). Also we are aware of the boundary changes proposed by Jedburgh Community Council, the formal proposal of which we are awaiting for consideration.	yes 30/1/24 also on general enquiries
06/01/24	Duns	Jim Carnie	Duns CC response.pdf	yes 16/1 CS
10/01/24	Duns	Andrew Mitchell	I note that the Scheme states that an external examiner should be appointed to look over the accounts each year but the handbook states that 2 independent examiners have to do the job. I cannot think of any other voluntary body requiring 2 examinations. I would suggest that the scheme requirement is the one which should stand.	yes 16/1 CS
09/01/24	Hawick	Margaret Hogg	I refer to your email of 2 November last enclosing the reviewed Scheme for CCs, along with other documentation. Due to other workloads of HCC taking priority, we have only managed to date to look at the Scheme itself, and I enclose our few comments on that, for your consideration. We will endeavour to review all of the other documentation, as soon as is practicable, and provide our comments to you on each in due course. This will however likely not all happen prior to the deadline date of 12th January 2024. Our apology if some of the queries are perhaps answered in that other documentation. I hope this is acceptable to you and I'll be in touch again hopefully in the not too distant future. Hawick CC response 09.01.24.docx	yes 16/1 CS
10/01/24	Reston & Auchencrow	Logan Inglis	Reston & Auchencrow response 10.01.24.docx	yes 16/1 CS

11/01/24	Selkirk	Andy Murray	<p>Please find below the response from Selkirk Community Council re: the suggestion of extending our boundaries, and our response to the SBC proposed updates to local Community Councils' Constitutions. The below changes were approved by the Community Council, in the presence of our 3 elected SBC Councillors, who can confirm. 1. We propose to extend our boundary as per the attached map ('3 Brethren closeup.').? It includes another fence bounding the Three Brethren cairns, and makes it easier to repair the fences, because one more of them would be ours. 2. We chose not to make any changes to membership numbers. (Notwithstanding that, of the 68 Borders Community Councils, only 10 list a full complement of members. A further 20 don't list members at all.) FYI, other comparable towns to us, who could have 12 members, but haven't reached that number, include: Jedburgh, Innerleithen, Melrose, Tweedbank, Coldstream, Lauder, Earlston and Newcastleton. 3. Constitutional changes. Please see a version of the SBC proposals, with our Selkirk change suggestions in red.</p> <p>3 Brethren closeup plus extra 2 fences.jpg</p> <p>Scottish Borders Community Council Scheme 2014 - proposed amendments V1.3 - Oct 23 AM.docx</p> <p>SelkirkandDistrict.pdf</p>	Selkirk CC contacted and asked if they want to call NM 15/1
11/01/24	Walkerburn & District	Lesley Thornton	Walkerburn & District reponse 11.01.24.docx	no amendments
12/01/24	Walkerburn & District	Lesley Thornton	Walkerburn & District reponse 12.01.24.docx	no amendments
11/01/24	Peebles	Anne Snoddy	<p>I attach the responses from Peebles Community Council to the consultation regarding SBC's review of Community Councils. Our four office bearers - Peter Maudsley, Graham Mackie, Fiona Richardson and me, Anne Snoddy - divided the sections between us and are referred to in the documents by our initials which are in red. Our responses are in blue. It was a considerable amount of work at a busy time of year and I hope you find our input useful.</p> <p>Peebles CC 11.01.24 (1).docx</p>	
				<u>yes 16/1 CS</u>

12/01/24		Graham Mackie	<p>I refer to your e-mail of 2 November. I have been treasurer of Peebles Community Council for 9 years. Prior to my retirement in 2013 I worked in financial services and was a fellow of the Institute of Chartered Accountants in England and Wales. Therefore I feel I can speak with some authority on financial matters. I have made a number of comments on your draft documents to our secretary who will have passed them on to you together with comments from other members. However, there are a couple of matters which concern me greatly that I wish to focus on. Firstly, point 14.5 of the Training Handbook states that all expenditure must be approved in advance by the Community Council. This is totally impractical, it would mean that before I bought a paperclip or a postage stamp I would have to seek approval from all members of the CC. I have not come across such a restriction applying to any other form of association. It would lead to unnecessary delays and waste a lot of time at CC meetings. The purpose of any group appointing a treasurer is to delegate decisions regarding money, rather than decisions being made by the whole group. There are of course safeguards in that cheque payments require a second signature and the treasurer has to make regular financial reports to the CC. Of course large items of expenditure should be discussed at least by the office bearers and in some cases the whole group but to require all items to be considered by the whole CC would impose a wasteful and unnecessary administrative burden. The second item of concern relates to honoraria and is in point 7 of the Financial Management Best Practice Guidance. It states that payments of honoraria may not be made to elected members of the CC. Since before I became treasurer Peebles CC has paid modest honoraria to our secretary and minute secretary. This is in recognition of the long hours that they put into carrying out their roles. To follow this rule would require these individuals to either resign their membership or cease being paid. A possible consequence of this is that we could end up without a secretary and/or minute secretary which would make it almost impossible for the CC to function. It is very difficult finding people to take on offices in the CC and we were without a minute secretary for a number of months. The rule would allow us to pay non-members but the amount we could afford would go nowhere near paying a commercial rate for a non-member to carry out the work. Could we expect the same level of dedication from someone who was only taking on the role of secretary or minute secretary for the remuneration? I think not. The comment that it would be inappropriate for these kind of payments to be made from the SBC annual grant makes no sense at all. The amounts involved are relatively small. Surely exactly the same argument could be made in relation to the much larger payments made to SBC councillors? Would they be willing to continue in office if they were unpaid? I appreciate the amount of work that must have gone into producing the draft documents and I understand that the authors are doing their best to stop public money being squandered. However it is necessary to apply a sense of proportion. I would be very willing to discuss these issues with the members of the working group if it would be of any assistance.</p>	added to general enquiries document
12/01/24	Earlston	Sheila Gibb	Earlston CC 12.01.24.msg	yes 17/01/24 CS

12/01/24	Upper Teviotdale & Borthwick Water	Walter Douglas	We have had a look at the SBC CC Scheme and the proposed amendments. Generally we welcome these proposals especially the addition of point 16. on Complaints Procedure and point 19. on Breaches of Code of Conduct. We do however have a query on point 2.3 covering what CCs have a statutory right to be consulted on. It is stated that "CCs should contact Scottish Forestry on forestry applications". We are unsure as to what this statement means. Does it mean that we have no right to be consulted on forestry matters? Surely we have a right to be at least notified of any forestry applications in our area and it is not up to CCs to find out about any proposals. We think that it is included in forestry best practice that communities should be consulted on forestry proposals and we do at present get notifications from various forestry developers. Finally, although we believe it was raised during the review of the CC scheme, we are disappointed that the problem of the ever increasing workload and bureaucracy being faced by CCs has not been addressed. We are sure that you have been told that it is increasingly difficult to recruit CCLrs never mind office bearers especially secretaries. If the functions of CCs are to be at least adequately carried out then we are afraid that the workload is becoming beyond what can be reasonably expected of local volunteers.	added to general enquiries document
13/01/24	Kelso	Gordon Horsburgh	Kelso CC 13.01.24.docx	yes 17/01/24 CS

This page is intentionally left blank

LOCAL GOVERNMENT ETC. (SCOTLAND) ACT 1994

SCOTTISH BORDERS COUNCIL
SCHEME FOR COMMUNITY COUNCILS

Scheme does not mention abiding by Community Councillors Code of Conduct.

1. 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 local authorities, made provision for the continuation of Community Councils.
- 1.2 Scottish Borders Council, in accordance with Section 22 of the Local Government etc. (Scotland) Act 1994 plans to adopt the following Community Council Scheme for the operation of Community Councils, which will replace the previous Scheme adopted on 26 June 2014. The new Scheme will come into effect from midnight on XXX.
- 1.3 Community Councils are a type of community participation body as defined in the Community Empowerment (Scotland) Act 2015. They have the authority to participate in the Community Planning process to produce Local Outcome Improvement Plans; make participation requests to a public service authority to permit them to participate in an outcome improvement process; to make asset transfer requests to a relevant authority; and to be notified of the local authority's intention to dispose of, or change the use of, any Common Good property. Should this include something about the requirement for SBC to apportion part of their budget each year, for expenditure on community initiatives, under the Community Empowerment Act?

2. Purpose of Community Councils

- 2.1 The general purpose of a Community Council is to find out, co-ordinate and express to Scottish Borders Council, and other public authorities, the views of the community which it represents in relation to matters for which those authorities are responsible. A Community Council can take such action in the interests of that community as appears to it to be expedient and practicable. In addition, a Community Council may carry out other activities in the general interest of the community it represents, provided these fall within the objectives of its constitution and any legal requirements.
- 2.2 In carrying out their activities, Community Councils must at all times adhere to the law, the terms of this Scheme, and the Community Councillors' Code of Conduct. Community Councils complement the role of the local authority although they are not part of local government.
- 2.3 Community Councils have a statutory right to be consulted on applications for planning permission and the Community Council has a special role, representing a broader yet still local view which can be set alongside the comments of those with a more individual interest. Community Councils

are also consulted on premises liquor licence applications. CC are consulted for liquor licence applications, I don't recall this happening for our local pub. Community Councils should contact Scottish Forestry on forestry applications.

3. Procedure for Establishment of Community Councils

3.1 In the event of no Community Council being established in an area listed in Schedule 1 to this Scheme, not less than 12 or more electors in that community council area can apply to establish/re-establish a Community Council in accordance with this Scheme. Within 6 weeks of receiving that application, Scottish Borders Council shall invite nominations for membership of the Community Council and, if necessary, organise an election for its re-establishment.

3.2 Bowden Village Committee previously 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, 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 that:-

- a) the Committee, composed of members duly elected at a public meeting, is truly representative of the community which it serves;
- b) 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) 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) the Committee gains certain advantages from its charitable status not presently enjoyed by Community Councils.

4. 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;
- b) the Scottish Borders Councillors for the area covered by the Community Council or part of it, who shall have ex officio membership (by right of their role) 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:-

(1) 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. These co-opted members shall not have voting rights and shall not hold office (and do not therefore count in terms of numbers of members of a Community Council), and may be under sixteen 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 decides that their services are no longer required; and

(2) 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 who are co-opted in this way 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). Why does there need to be any restriction in the number of co-opted members? We are a voluntary body and maximum numbers on board gives more input/output.

(d) At the Community Council meeting where a person is co-opted on to the Community Council, the Minute of that meeting must record whether the co-option is under paragraph (1) or (2) above.

4.2 A Community Council has a duty under statute to represent the views of its local area. It should reflect the broad spectrum of opinion and interests of all sections of its community. The views of the community should take precedence over the views of individual Community Councillors. A Community Council will ensure that an equal opportunity is given to all people within the community to put forward their views and opinions and shall recognise the diversity of an area. As and when considered necessary, a Community Council is encouraged to carry out a survey or hold a local event to gain the views of its community on any number of local matters, including the identification of those issues or priorities of most importance to the community.

4.3 A Community Council is required to comply with the provision of the Equality Act 2010. This makes it unlawful to discriminate against persons or groups on the grounds of race, gender, gender recognition, disability, age, sexual orientation, and religion or belief. There are 9 Protected Characteristics – and this only lists 7 – Pregnancy & Maternity; and Marriage & Civil Partnership are missing. Is there a reason for this?

5. Method of Co-option of Members

- 5.1 Any person to be co-opted on to a Community Council in terms of paragraph 4(c)(2) must express a wish to be put forward and is not simply approached to make up the numbers. Any proposal to co-opt a person or persons to a Community Council must be included on the Agenda for the appropriate meeting of the Community Council. This shall include the name 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. 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.
- 6.2 Where a casual vacancy arises on a Community Council, where the membership of the Community Council is above half the maximum membership, then this place may be filled either through co-opting a member (as detailed in paragraph 4.1(c)(2) or by holding a by-election. Where the elected membership is less than half of the maximum number permitted elected members, a by-election must be held.

7. 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 three years, and shall be eligible for re-election. A Community Council may extend this maximum period to four years with the approval of Scottish Borders Council. Any member co-opted to a Community Council or elected in a by-election shall be appointed only until the date of the next full election of that Community Council.
- 7.2 A Community Council which chooses to hold rolling terms of office of three years from when a Community Councillor is elected must provide for such methodology in its Constitution, including the holding of by-elections, and have the prior approval of Scottish Borders Council. What does this mean and how does it work? If not explained and expanded how would CC know how it works and explore the option.

8. 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 subdivision of that area, where applicable. A person seeking election to a CC can be nominated by a Proposer and Secunder who are resident in our area **and** are on the Electoral Roll, yet at 5.1 a candidate being co-opted on, can only be so proposed and seconded by a CC member. This means that anyone new to the town, who is interested in joining a CC and who is unlikely to know anyone on the CC to propose or second them, could only be considered at election time? What different checks are perhaps done in these instances?
- 8.2 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. Does this include co-option? How would a CC check?
- 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. The nomination period shall not be less than 14 and not more than 28 days, although this period may be extended by up to 7 days if insufficient nominations are received. After this, 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 an event, no further application for the establishment of a Community Council for that area shall be considered until 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 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. Returning Officer

- 9.1 The Returning Officer for the first election to a Community Council shall be the Director Corporate Governance of 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 Director Corporate Governance.

- 9.2 The Returning Officer for any Community Council election or by-election shall not be an elected member of that Community Council or a candidate in that election to that Community Council. An Elected Member of Scottish Borders Council or an officer of the Council or another local independent person may act as Returning Officer.

10. Voting Arrangements

- 10.1 People included in the section(s) of the Electoral Roll for the Community Council area 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 them 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 which shall contain:

- 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 of members elected.

11. 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 by the Returning Officer or their nominee (or an ex officio member, if available) until such time as a Chair has been elected, the Community Council shall elect from its eligible members a Chair and such other office-bearers as the Community Council shall deem necessary. Office-bearers who are eligible for re-election, shall thereafter 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. The Chair shall be known by such title as the Community Council decides, subject to approval of that title by the Scottish Borders Council.

- 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 out-with the membership shall be entitled to speak only on matters relating to their function as office-bearers and shall have no voting rights. All Office bearers are entitled to claim actual expenses incurred when carrying out their official functions, to be paid from the Community Council's existing funds. Payment to Secretary/Treasurer – what is the difference between being allowed to pay for an 'external' person to act as secretary or treasurer and paying them, as opposed to members of HCC taking on that role and being paid? Whilst it is ok to claim expenses, can it be clarified if that includes time spent on the role, as opposed to expenditure on stationery, stamps etc. HCC considers it should be left to CCs to pay if they so wish and can afford.

Good to see expenses (new and appreciated) but only refers to "office bearers".

Attendance at meetings and events isn't only restricted to those Community Councillors alone.

In the Financial document there is no mention of mileage allowance or how to manage these but we live in a rural area and that's we travel.

- 11.3 Following the first meeting after every election, each Community Council will lodge with the Director Corporate Governance of Scottish Borders Council a return specifying the full names, designations and contact details of the Community Council's office-bearers and Examiner(s) of their Accounts and subsequently advise, in writing, of any changes to these appointments.
- 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. Where a Community Council has chosen to hold any of its meetings on-line, such meetings must also be available to

view by members of the public and must have the facility to allow members of the public to submit questions during the meeting, as would be the case in a physical meeting. It is the responsibility of the Community Council to arrange such meetings. It was felt that SBC should make available a system for on-line meetings so that each community council is not required to purchase its own package

It was noted that a contradiction exists between para 11.4 of the Scheme, Doc 4 Standing Orders (1.1), and the Training Handbook (Doc1 para 7.4). The first states "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 AGM. The Standing Orders (1.1) Page 5 of 6 state:- "at least 3 meetings per annum, excluding the AGM" . The Handbook states at 7.4 "The frequency and timing of ordinary meetings will be determined by the CC, subject to a minimum of 6 ordinary meetings and one AGM being held each year." This needs to be standardised. The Chair questioned whether it is necessary to state in Standing Orders (1.1) the months when meetings are to take place, as this is restrictive and does not allow for changes, for practical reasons e.g. Hall unavailability.

- 11.5 Community Council members shall comply with the Scottish Borders Code of Conduct for Community Councillors, Schedule 2 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 from the Community Council.
 - 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 to the Director Corporate Governance agreement by all its members to abide by this 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. Is it maximum number of elected members (as stated by SBC for each CC) or one-third of actual serving members at the time of any meeting?
- 11.8 Every Community Council must 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 twelve electors, convene a special meeting, to be held within twenty-one days of receipt of that requisition. This meeting should consider, discuss and resolve 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.

11.10 Each Community Council will process personal data and, as such, will need to register or renew its registration with the Information Commissioner's Office (ICO) as a data controller. As a data controller, each Community Council is responsible for compliance with data protection legislation and must be able to demonstrate this to data subjects and to the UK Information Commissioner. Renewing registration with ICO – the first sentence is confusing as it implies that a CC needs to register whereas in fact SBC does this on behalf of CCs and pays associated costs, as outlined at 16.4 of the Training Handbook

SBC appear to be adding this to CC responsibilities and volunteer workload?

The statement means nothing in practical terms and nothing in the "training" document: see page 8, 4.14.

12. 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 or Sub-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, which shall run from April to March; There must be at least 3 meetings held in any 12-month period, to be convened at intervals of not more than six months – how is this possible?

SBC appear to be adding this to CC responsibilities and volunteer workload?

The statement means nothing in practical terms and nothing in the "training" document: see page 8, 4.14.

- d) The Agenda for the Annual General Meeting shall include items for receiving the following, namely:-
 - (i) a report on the Community Council's activities for the previous year;

- (ii) the scrutinised/approved Annual Statement of Accounts; and
 - (iii) proposals for the amendment of that Community 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 by post or electronic means 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 (including those online) 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/through accessible means.
- 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;
- 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) Details of provisions for the suspension of a Community Councillor who consistently or flagrantly breaches the Code of Conduct (included repeated non-declaration of interests) for a period not exceeding 6

months; and for the suspension or permanent expulsion of a Community Councillor who is guilty of theft or improper use of Community Council assets or who is guilty of any other offence which is deemed to affect their ability to participate in the activities of the Community Council or who may have brought the Community Council into disrepute by their actions or activities;

- q) Calling of extraordinary public meetings;
- r) 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;
- s) An equalities statement;
- t) A Data Protection policy;
- u) Details of a complaints procedure; and
- v) A dissolution clause.

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

13. 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 A Community Council shall hold a bank account(s). This can be through internet banking provided appropriate governance and monitoring procedures are put in place. Three unrelated Community Council members should be nominated to act as signatories to the bank account(s). Any changes to authorised signatories should be approved by the Community Council. Scottish Borders Council may provide guidance to Community Councils on best practice in

financial management. Internet banking has not been allowed, spotted something in Minutes about a pilot at Eyemouth.

Why? What was the outcome? Were they considered and charged as Business Account? Appropriate governance etc not quantified here, might be somewhere I've missed during paper overload.

- 13.4 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.
- 13.5 Community Councils shall be empowered to raise funds for schemes, projects and other purposes within their stated objects.
- 13.6 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.
- 13.7 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 Resilient Communities of Scottish Borders Council, or other designated Scottish Borders Council official, within seven days of the Annual General Meeting.
- 13.8 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.
- 13.9 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 after mentioned 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.
- 13.10 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.
- 13.11 Each Community Council shall keep an accurate record of any assets held and where they are kept indicating its wishes for the dispersal 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 Resilient Communities of Scottish Borders Council within twenty-one days of it being agreed by the Community Council.

Section on Common Election date removed

14. Mutual Exchange of Information

14.1 The Scottish Borders Council shall make available on its website details of all its committee meetings. At least 3 clear days prior to any committee meeting in which a Community Council has representation, Scottish Borders Council will send electronically agendas of such committee meetings and thereafter Minutes of such meetings. Copies of such consultative documents as the Authority may from time to time decide are appropriate shall be sent electronically to all Community Councils. Meetings are already on the website. What do SBC expect to happen in 3 days when CC's only meet monthly and not every month. More electronically sent material that has to be cascaded.

14.2 Each Community Council shall submit to the Scottish Borders Council's Director Corporate Governance 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. Such information can be sent electronically to communitycouncils@scotborders.gov.uk and this mailbox may also be used for any enquiries, both from Community Councils and also members of the public.

14.3 It is the responsibility of each Community Council to hold and publish its agendas, papers and minutes of meetings. The Scottish Borders Council website shall contain details of the contacts for each Community Council and also a link to where the Community Council publishes such information.

15. Training and Development

15.1 Scottish Borders Council shall provide a handbook for Community Councillors and Community Council office bearers with details of the requirements of individuals and best practice guidelines. This shall be used for induction of new Community Councillors. Based on a Training Needs Analysis? How will usefulness, application and practicality of SBC "rule book" of requirements be measured and evaluated?

15.2 Scottish Borders Council shall provide a handbook for Community Councils and Returning Officers on the requirements and processes for running a Community Council election. Dumped work?? Not Training or Development. Why and how does SBC expect members of a dissolved CC to manage an Election Process? Personally - if introduced, I'll not be returning to CC so won't be undertaking any of us.

16. Complaints

16.1 From time to time, people may be dissatisfied or have concerns about a standard of service, action or lack of action by a Community Council or one or more of its members. This could include;

- breaches of the Community Council Scheme or the Constitution of a Community Council;
- treatment by, or attitude of, a Community Council when dealing with a Community Council issue;
- financial irregularities or fraud;
- breaches in confidentiality;
- misuse of social media, email or letters for the purpose of personal and/or financial gain;
- bringing the Community Council into disrepute.

16.2 Notification of any complaint or concern about a Community Councillor shall in the first instance be addressed to the Chair of that Community Council, other than if the complaint concerns the Chair, in which case the complaint shall be sent to the Secretary of that Community Council. If the complaint relates to both the Chair and the Secretary, then the complaint shall be sent to another Community Councillor. Any complaint or concern about the operation of the Community Council shall be addressed to the Chair of the Community Council. A Community Council shall aim to resolve a complaint quickly, either by an explanation, or where appropriate, an apology if something has clearly gone wrong. As Chair and Secretary - looks like I'd be talking to myself a lot. As 15.2, I'm not paid to investigate or judge people. In fact, not paid at all.

16.3 Should a complaint not be resolved, the Community Council or Scottish Borders Council may request a Community Council from another area to mediate and help resolve, coming to a mutual agreement.

17. Scottish Borders Community Council Network(s) Is the current group gone?

17.1 Community Councils may choose to set up a network in a locality and/or across the Scottish Borders Council area to promote and support each other and provide a collective view of the community councils on locality or regional issues to Scottish Borders Council, Scottish Government, or other bodies as appropriate. There is no obligation on any Community Council to participate in such a network. Any such network must make it clear in any responses whether it has sought direct input from Community Councils to the matter and also which Community Councils it represents. Such network(s) may be used by Community Councils as a source of help and advice. An afterthought? More work and difficult to imagine being taken on when see the Area meetings for Eildon.

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	Duns	12	---
9	Edrom, Allanton and Whitsome	9	---
10	Eyemouth	12	---
11	Foulden, Mordington and Lamberton	11	Foulden - 5 Seats Mordington - 3 Seats Lamberton - 3 Seats
12	Gavinton, Fogo and Polwarth	10	
13	Gordon and Westruther	9	Gordon - 5 Seats Westruther - 4 Seats
14	Grantshouse	8	---
15	Greenlaw and Hume	12	Greenlaw Seats - 9 Hume Seats - 3

16	Hutton and Paxton	8	Paxton - 4 Seats Hutton - 4 Seats
17	Lammermuir	10	Cranshaws - 3 Seats Longformacus - 7 Seats
18	Leitholm, Eccles and Birgham	10	Leitholm - 4 Seats Eccles - 2 Seats Birgham - 4 Seats
19	Reston and Auchencrow	10	Reston - 7 Seats Auchencrow - 3 Seats
20	St. Abbs	7	---
21	Swinton and Ladykirk	9	
Ettrick and Lauderdale			
22	Bowden Village Committee	6	
23	Earlston	12	
24	Ettrick and Yarrow	12	
25	Galashiels	15	
26	Heriot	6	
27	Lauderdale	12	
28	Lilliesleaf, Ashkirk and Midlem	8	
29	Maxton and Mertoun	8	
30	Melrose and District	12	
31	Newtown and Eildon	10	
32	Oxton and Channelkirk	6	
33	Royal Burgh of Selkirk and District	12	
34	St. Boswells Parish	10	
35	Parish of Stow	12	Stow - 10 seats Fountainhall - 2 seats
36	Tweedbank	12	

Roxburgh			
37	Ancrum	12	
38	Burnfoot	12	
39	Crailing, Eckford and Nisbet	9	
40	Denholm and District	10	
41	Ednam, Stichill and Berry Moss	9	
42	Floors, Makerstoun, Nenthorn and Smailholm	12	
43	Hawick	15	
44	Heiton and Roxburgh	12	
45	Hobkirk	9	
46	Jedburgh	12	
47	Jed Valley	9	
48	Kalewater	12	
49	Kelso	12	
50	Lanton	5	
51	Newcastleton	12	
52	Oxnam	9	
53	Southdean	10	
54	Sprouston	7	
55	Upper Liddesdale and Hermitage	6	
56	Upper Teviotdale and Borthwick Water	10	

57	Yetholm and District	11	
Tweeddale			
58	Carlops	6	
59	Clovenfords and District	12	
60	Eddleston	8	
61	Innerleithen and District	12	
62	Lamancha, Newlands and Kirkurd	12	
63	Manor, Stobo and Lyne	9	
64	Royal Burgh of Peebles and District	18	
65	Skirling	6	
66	Tweedsmuir	6	
67	Upper Tweed	10	
68	Walkerburn	9	
69	West Linton	9	

Schedule 2 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.
- 1.4 When appointed to the Community Council, members formally agree to abide by this Code of Conduct and will do so annually thereafter.

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 Community Councils as set out under the terms of the Local Government etc. (Scotland) Act 1994).
- 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 consider any private interests they may have relating to their Community Council duties and should take steps to resolve any conflicts arising in a way that protects the public interest. At every meeting where such a conflict exists (even if that declaration was made at a previous meeting), 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:-
1. that members of the public might reasonably think the private interest could influence them; and
 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 members of the public, 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.

19 BREACH OF CODE OF CONDUCT

- 19.1 Any breach of the Code of Conduct should be notified to the Chair of the Community Council concerned, or another office bearer should the Chair be the subject of the breach.
- 19.2 If any Community Councillor is deemed to be in breach of the Code of Conduct, it is for the Community Council to hold that member to account and apply any sanctions as described in the Scheme for Community Councils and/or the Constitution of the Community Council.

SCOTTISH BORDERS COUNCIL

TRAINING HANDBOOK FOR COMMUNITY COUNCILS

- **CONTENTS** Doc 1 Community Council Training Handbook- **although the document can be useful, it appears a little repetitive and confusing. Suggestion would be to refresh the existing handbook initially created by the SBCCN.**

1. What is a Community Council
2. Community Council Elections
3. The Role and Responsibilities of Community Councillors
4. The Roles of Office Bearers
5. Consulting with the Community
6. The Constitution and Standing Orders
7. Meetings of the Community Council
8. Agendas
9. Decisions and Voting at Community Council meetings
10. Minutes of meetings
11. Meetings protocol
12. Responding to Consultations
13. Membership of the Community Council
14. Community Council Finances
15. Insurance
16. Data Protection
17. Equality, Discrimination and Unconscious Bias
18. Contacts at Scottish Borders Council

1. WHAT IS A COMMUNITY COUNCIL?

1.1 Community Councils were established by the Local Government (Scotland) Act 1973 as a way of bridging the gap between local authorities and local communities. There are currently 69 Community Councils spread across the Scottish Borders, covering small rural communities as well as the larger urban areas. Each Community Council has a maximum and minimum number of members, who are made up of volunteers who are elected or co-opted to serve as members. The Community Council also appoints from amongst its membership a number of office bearers.

1.2 The purpose of Community Councils is set out in the 1973 Act as follows –

"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 authorities 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."

So the role of the Community Council includes:

- finding out what local people think about issues affecting the local community
- making sure the local authority and other public bodies are aware of those views
- communicating information to the local community; and
- acting in the interests of the local community

1.3 Thus, Community Councils have an important role to play in ensuring that their local authority and other public bodies are as informed as possible about the views, needs and wishes of their communities and in helping to keep the local community informed. If Community Councils are to be fully representative and act in the interests of their communities as a whole, it is important that they do not favour a particular political party, ethnic group, gender or age group. They should seek, and be seen to seek, the views of the local community, and avoid any automatic assumption that the views of the Community Council or of its individual members reflect those of the wider community.

1.4 There are specific areas where public bodies will approach Community Councils directly seeking their views. For example, if they are statutory consultees on certain planning and licensing matters. Their feedback may also, from time to time, be sought on public consultations. However, should they choose to do so, Community Councils can do more. There is a great deal of scope and flexibility for Community Councils and they can choose to do

many things. However, all Community Councils should keep as their core role, acting as a voice to represent the views of their community. Areas for Community Council input could include:

- writing letters/sending emails following a meeting of the Community Council in order to highlight an issue
- attending meetings with public officials
- holding public meetings in response to a specific issue or to find out what the areas of concern are within the community
- carrying out surveys through questionnaires
- meeting with other Community Councils or other community groups
- working in partnership with other agencies on a particular project
- receiving and responding to enquiries and problems raised by members of the public
- sending representatives to attend a meeting of Scottish Borders Council or another public agency
- producing a newsletter and distributing this to all homes in the area
- using social media to send out information or raise issues
- having a website for the Community Council or providing information for a community/village website
- arranging community events such as festivals, litter picks, Christmas lights, etc.
- co-ordinating small, local groups to ensure that resources are not wasted and that several groups are not all trying to do the same thing.

2. COMMUNITY COUNCIL ELECTIONS

2.1 There is a separate handbook which covers the details of running a Community Council election. However, in summary, elections to the Community Council falls into two categories:

(a) Full elections

These must be held every 3 or 4 years and they bring to an end any existing Community Council memberships, and Community Councillors who wish to continue in that role are required to seek re-election and submit nomination papers along with any other member of the local community who wishes to become involved.

(b) By-elections

A by-election is held when vacancies occur in the Community Council or the number of members of the Community Council falls below the minimum required. In the latter case, if it is less than 6 months before the next full election is due, it is recommended that a full election rather than a by-election is held. While the by-election will not bring to an end the

membership of any elected members of the Community Council, it will bring to an end any co-opted memberships.

- 2.2 Elections or by-elections are held with the support of the Democratic Services team at Scottish Borders Council, who will give advice and guidance and arrange for details of the election to be publicised on the Council's website and social media. For details of running an election, please see the Election Handbook.

3. THE ROLE AND RESPONSIBILITIES OF COMMUNITY COUNCILLORS

- 3.1 It is important that Community Councillors recognise from the outset that they are required to play a role in their community. It is not a case of simply offering a personal view or opinion on local issues or taking decisions based on their own self interest. The role of the Community Councillor is to represent the view of their community. They are free to have political and/or religious affiliations, but they must ensure that they represent the interest of the community and the Community Council and not the interests of a particular political party or other group. In practice, this will involve discussing issues with people in the community to get their views and assess the strength of their feelings on different topics. Community Councillors should also encourage people to bring issues to them so they can be discussed at Community Council meetings. They should however, try to check out the facts before taking matters to the Community Council, and if there are two sides to the story, make sure that both sides are put forward.
- 3.2 At some point Community Councillors may find some conflict between their personal views and interests and those of the community they are representing. If such a situation does arise, the views of the community need to take precedence. Experience shows that if the view of individuals on the Community Council are allowed to take priority then the community will very quickly lose confidence in the Community Council and its work may subsequently be devalued. In some instances, it may therefore be necessary and appropriate for a Community Councillor to declare an interest in a matter under discussion and to withdraw from that debate and decision making. Every Community Councillor must comply with the Code of Conduct at all times.
- 3.3 In some instances, the discussion or decisions of the Community Council may also involve setting priorities on the competing or conflicting needs of different sections of the community. Competition and conflict are normal in any community, so should not be through of as something that can be avoided altogether. What is important is that competition or conflict is approached in a fair and reasonable manner. This means taking a balanced view of the community's needs and aspirations and giving a fair hearing to

representatives from different interest groups in the community. In particular, Community Councillors should avoid being influenced by any prejudice or bias, whether in the sphere of race, religion, gender or any other basis.

4. THE ROLES OF OFFICE BEARERS

- 4.1 Community Councils should appoint a Chair, Secretary and Treasurer from among their elected and co-opted members. *Ex-officio* members are not eligible to become officer bearers. In some cases, particularly with smaller Community Councils, a single person may perform one of these roles. However, a single person must only perform a maximum of two roles. In addition, some Community Councils may decide to appoint a Vice Chair to deputise for the Chair or assist in their duties. Office bearers and other Community Councillors should ensure that they are aware of the content of any documents they sign, the reason for any money being received or spent, and that authority has been granted by the Community Council for any of this.
 - 4.2 A Minute Secretary may also be appointed, whose sole function is to produce the Minutes of Community Council meetings, leaving the Secretary to perform the other tasks associated with that role. These appointments are normally made at the Annual General Meeting (AGM) and last until the following year's AGM. Interim appointments can be made should a vacancy arise.
 - 4.3 To be successful, a Community Council needs to have energetic and conscientious Office bearers, prepared to put in the necessary time and effort. It is bad policy to overload one individual, so at times it may be necessary to spread the workload either amongst the Office bearers or the wider Community Council membership.
- The Chair and Vice-Chair**
- 4.4 The Chair has the most important single role to play in making sure that Community Council meetings run smoothly. However, the Chair's role must be given the appropriate respect and support of all members of the Community Council. The Chair is elected in line with the rules set out in the Community Council's Constitution. This Constitution is very important because it provides the framework of procedures that govern the work of the Community Council.
 - 4.5 The Chair's job is to make sure that decisions are made on all items which are on the agenda at Community Council meetings. In practice, this usually means they have to make judgements about how much time to allocate to each agenda item, encourage people to make their contributions brief and to the point, and occasionally have to bring speakers back to the agenda item should they have drifted away from this.

4.6 In regular meetings, the role is a formal one, and all speakers will be expected to address their comments through the Chair. This helps the Chair to keep control of the discussion. For some items on an agenda, where proceedings do not need to be so formal, the Chair may be happy simply to steer the general direction of the discussion, giving everyone the opportunity to contribute. It is likely to be a combination of both the formal and enabling approaches which are used at the appropriate time, and these are set out below.

4.7 *General role and responsibilities*

The Formal Chair

- Encourages fair play
- Stays in charge
- Remains neutral
- Agenda and timekeeping
- Opens the meeting
- Introduces all agenda items
- Is familiar with all agenda items
- Gets through the agenda in the allotted time

The Enabling Chair clarification of the role/term require, is it one role

- Has an overview of the task/goals of the meeting
- Helps to clarify goals
- Helps the group to take responsibility for what it wants to accomplish
- Helps the group to carry out its tasks
- Has little emotional investment
- Runs through the agenda at the beginning and gets the meeting's approval for it
- Arranges in advance for someone to introduce each agenda item
- Updates latecomers
- Keeps track of time
- Evaluates how the meeting went at the end

4.8 *Discussion I have been looking at the 24 page Training Manual. On pages 6 and 7 there are references to 'the Formal Chair' and 'the Enabling Chair'. The Enabling Chair does not appear in the earlier list of office bearers. Does that mean these two roles are the responsibility of just one person, the Chair?*

The Formal Chair

- Selects speakers
- Summarises discussion
- Ends discussion
- Makes sure that people keep to the subject

The Enabling Chair

- Encourages and helps everyone to participate
- Encourages the expression of various viewpoints

- Encourages people to keep to the subject
- Clarifies and summarises discussion
- Makes it safe to share feelings
- Suggests ways of handling conflict

4.9 *Decision making and voting*

The Formal Chair

- Makes sure decisions are taken and agreed
- Decides when to vote
- Conducts the vote
- Makes sure that the responsibility for action is allocated

The Enabling Chair

- Suggests structures for decision making
- Looks for areas of agreement
- Tests to see if there is agreement
- Makes sure someone will carry out decisions

4.10 During meetings, the Chair has a number of responsibilities –

- General role – ensure fair play; stay in charge; remain neutral; do not become emotional.
- Agenda and timekeeping – open the meeting on time and stick to time; introduce agenda items (although may pass over to others on the Community Council to present items); be familiar with all the papers; end the meeting at the allotted time, where possible; evaluate how the meeting went.
- Discussion – encourage members to speak and help them participate at the appropriate times; encourage expression of various views; encourage people to keep to the subject; clarify and summarise discussion.
- Decision making and voting – ensure decisions are taken and agreed; decisions will hopefully be by consensus but, if not, know when and how to conduct a vote; ensure that responsibility for actions is allocated and recorded in the Minute.
- Rules – know the rules of the meeting; be the arbiter on points of order and procedure.
- Decide if and when Members of the public will be allowed to speak.

4.11 It is important to recognise that the Chair's role extends out-with the meetings of the Community Council. They may be called upon to act on behalf of the Community Council between meetings, or to represent the Community Council in dealing with other organisations or outside bodies. Very often, the Chair is seen as the official spokesperson for the Community Council and must be seen as polite, authoritative and fair in all their dealings with outside bodies, groups, individuals and the media.

4.12 The Chair is also expected to know the terms of the Community Council's Constitution, Standing Orders and the terms of the Scottish Borders Community Council Scheme, and to make sure that at all stages of its work, the Community Council is operating in line with any formal procedures. In this context, the Chair can be called upon to act as an arbiter when there is a disagreement about how the rules should be interpreted. The duties of the Chair include:

- Checking that a meeting has been called in accordance with the rules
- Having a thorough knowledge of the rules
- Ruling on points of order and procedure
- Acting on behalf of the Community Council between meetings
- Pursuing decisions made in meetings.

4.13 Unless detailed in the Constitution, the Vice Chair has no specific duties, other than standing in for the Chair when they are unable to be present, they will of course need to be familiar with all the duties of the Chair. The Vice Chair post can be a useful preparatory role for a future Chair, but shadowing the current Chair, supporting the Chair in their role, or taking over some of the Chair's workload when necessary or when asked to do so.

The Secretary

4.14 The Secretary is responsible for:

- Preparing and circulating the agendas of meetings
- Preparing and circulating the Minutes of meetings
- Answering all correspondence
- Writing any letters/emails
- Circulating information to Community Councillors
- Public relations, including dealing with the media
- Arranging the venue for meetings
- Liaising with officers of the local authority
- Supporting the Chair and obtaining any external specialist advice required by the Community Council

4.15 The Secretary needs to be energetic and enthusiastic, prepared to put in the necessary time and effort required. It should be considered essential that the Secretary has the necessary skills and capacity to fulfil their responsibilities e.g. access to laptop/computer, knowledge of IT software packages, familiar with the use of emails and the internet

The Treasurer

4.16 The Treasurer is responsible for the finances of the Community Council. They will make payments on behalf of the Community Council and must keep up to date the Community Council's financial records so that they disclose, with reasonable accuracy at any time, the financial position of the Community Council.

4.17 The Treasurer should:

- Manage the bank account
- Account for all funds received
- Advise the Community Council of its financial position before it commits to spending further funds
- Ensure that money is only spent in a manner approved by the Community Council members as recorded in the Minutes

4.18 Any cheques issued should be signed by at least two persons authorised by the Community Council members as recorded in the Minutes and notified to the bank in writing. As a general rule, Treasurers should avoid paying out money other than by check or online transfer as this makes accounting for expenditure much easier.

4.19 The Treasurer must keep proper account of all receipts and expenditure, prepare an annual statement of income and expenditure, and have it certified as correct by a competent and independent examiner of accounts. They should be formally appointed by the members and named in the Minutes. The annual statement must be formally approved at the next Annual General Meeting when the Treasurer must report, and answer questions raised by members of the Community Council or members of the public. A certified and approved copy of the accounts needs to be sent in to Scottish Borders Council in order to qualify for the annual grant.

5. CONSULTING WITH THE COMMUNITY

5.1 If Community Councils are to fulfil their core purpose, which is to ascertain, co-ordinate and express the views of the communities they represent, then they need to consult as fully as possible with their local communities and give local people the opportunity to make their views known. Advice from Scottish Government emphasises the importance of Community Councillors resisting any temptation simply to assume that their own personal views reflect those of the wider community. Instead, they need to make an active effort to represent the interests of their community as a whole.

5.2 Community Councils can consult with the local community in a variety of ways. Making local people aware of Community Council meetings and encouraging them to attend is a good start. As a minimum requirement, notices of meetings of the Community Council need to be posted locally at least 7 days in advance, and these notices need to give contact details on where papers for the meeting and Minutes from previous meetings can be viewed. Account should be taken of those members of the public without access to websites/social media so notices should also be placed on local noticeboards or in local shops or leisure facilities, whichever is available in the Community Council area.

- 5.3 Some Community Councils have set up their own websites or social media pages, which gives details of meetings, copies of agendas and Minutes and information on important issues. This can also be a means by which members of the community can express their views to the Community Council. However, it cannot be the only means available. If considered practical, the issue of a newsletter from time to time can also be used.
- 5.4 Many Community Councils also have an Open Forum or Open Questions item on each meeting agenda, and this allows members of the public to raise matters of concern or interest. It is important for the Chair to manage this part of the meeting effectively, particularly to avoid discussion of personal issues or accusations. It is also a good idea to consider setting a limit on the time for such an agenda item.
- 5.5 Where there is a particularly important or contentious matter to be discussed, the Community Council may wish to consider more extensive publicity for its meetings, perhaps by putting up notices in relevant extra venues or contacting Scottish Borders Council to put a notice on the Council's social media platforms. It is up to each Community Council to find the best means of involving their local community and balance this with good financial management of a limited budget.
- 5.6 In cases where the Community Council has been asked to respond to a consultation on a particularly contentious issue, it lends credibility and authority to the Community Council's submission if it can be demonstrated that an effort has been made to consult the local community. This might entail questionnaires targeted at relevant sectors of the community and/or canvassing the views of local households. At the meeting, the Chair may also call for an informal show of hands from the members of the public present, although care needs to be taken that people are not intimidated if they are in the minority view. For issues covering more than one Community Council area, consideration might be given to working in partnership or collaborating with a neighbouring Community Council to pool expertise and resources in terms of consulting with the affected communities.
- 5.7 All of the above requires a significant effort and commitment from Community Councillors. However, the rewards, in terms of raising the profile of the Community Council and lending credibility and authority to the views it expresses, are also considerable.
- 5.8 In summary, Community Councils should consider:
- Widely publicising meetings
 - Finding mechanisms for encouraging the public to attend meetings

- Finding different ways to make agendas, minutes and information more accessible to the local community
- Using community surveys, questionnaires and canvassing on important issues
- Issuing a newsletter
- Using the internet, in particular websites and social media
- Incorporating a public "open forum" into agendas.

6. THE CONSTITUTION AND STANDING ORDERS

6.1 Each Community Council needs to adopt a Constitution and Standing Orders, which need to comply with the Scottish Borders Community Council Scheme. Examples of these are provided. Any changes which are subsequently made to the Constitution and Standing Orders must still conform to the Scheme itself.

The Constitution

6.2 The Constitution is the core governing document of a Community Council and must be formally agreed and retained by the Community Council, with a copy sent on to Scottish Borders Council for their records. It gives details of the membership, term of office, election, etc. for the Community Council and is based on the information contained in the Scottish Borders Community Council Scheme.

Standing Orders

6.3 The Standing Orders are the rules a Community Council agrees will apply to the conduct of its meetings, and again, is based on information contained in the Scottish Borders Community Council Scheme. A copy of Standing Orders should be sent to Scottish Borders Council for their records.

6.4 Both these documents can be changed to suit the requirements of a particular Community Council but these must conform to the Scottish Borders Community Council Scheme. If the Community Council wishes to discuss such changes, they must first provide notice at one of their meetings that such a discussion is to take place at the following meeting. This provides notice to both the members of the Community Council, and to the community, that such a change is to be considered. Any changes approved by the Community Council at that subsequent meeting will also need to be approved by Scottish Borders Council before they come into effect.

7. MEETINGS OF THE COMMUNITY COUNCIL

7.1 Community Councils hold 3 different types of meetings – ordinary meetings, special meetings, and the Annual General Meeting (AGM). Meetings are where the decisions of the Community Council

are made, and where the community gets to witness the decision making process in action.

- 7.2 The Secretary must provide notice of meetings, including the date, time and venue, to all members of the Community Council (including *Ex-officio* members) at least 7 days prior to the date fixed for the meeting. The agenda should be available to the public online and on any public notice board in the area of the Community Council. If it is impractical to place every agenda onto notice boards then at the very least a list of dates for Community Council meetings and a contact Telephone Number and Email address should be placed there so members of the public know who to contact to get further details including the papers for the meeting.
- 7.3 The norm is that all meetings of a Community Council are open to members of the public to attend. When choosing a venue for such meetings, the Community Council should ensure there is sufficient space to accommodate members of the public. Members of the public can be invited to speak at meetings at the invitation of the Chair. A Community Council can consider an item of business in private where it considers it appropriate to do so, but the basis by which the Community Council considers it appropriate must be made clear to the public. Private items (and the reasons for these being held in private) must be on the agenda for a meeting. Dealing with items of business or meetings in private should be seen very much as the exception and not the rule. Where too many matters are treated as private, the transparency and accountability of the Community Council is undermined, which may result in a loss of confidence by the community in the work of the Community Council.
- 7.4 Following an election forming a Community Council, an ordinary meeting will be called by the Returning Officer and that will take place within 21 days on the date of the election or as soon as practicable thereafter. The frequency and timing of ordinary meetings will be determined by the Community Council, subject to a minimum of 6 ordinary meetings and one AGM being held each year. The majority of the business of the Community Council will be dealt with at such ordinary meetings. states minimum 6 meetings + AGM annually SB Community Council Scheme 2014 12.1 says frequency at least 3 meetings including AGM
- 7.5 Special meetings of the Community Council may be called at any time on the instructions of the Chair of the Community Council or as agreed at a Community Council meeting. These special meetings may be considered appropriate either where a particular matter requires urgent consideration out-with the cycle of ordinary meetings, or where the importance or complexity of an issue is such that it merits devoting the full attentions of the Community Council and attending public for a whole meeting. Although not a

requirement, special meetings may also be considered appropriate if there is to be a guest speaker or presentation.

7.6 Community Councils are required to hold an Annual General Meeting (AGM) each year and in the Scottish Borders this has to be within 60 days of the end of the financial year. This allows sufficient time for the completion and verification of the annual accounts. One of the purposes of the AGM is to update the members of the Community Council and members of the public of the work of the Community Council in the preceding year. It would also be an appropriate place to document any future plans of the Community Council, be they for the forthcoming year or the longer term. An AGM also marks the end of the term of office for the Office bearers and is where the Office bearers for the year to come are elected, whether they are new to the role or are being re-elected.

7.7 There are certain specific items which are required to be considered at the AGM:

- Chair's Annual Report (including questions from the floor)
- Secretary's Annual Report (including questions from the floor)
- Treasurer's submission of Annual Accounts in the form of a Balance Sheet and a Statement of Income and Expenditure, duly independently examined and certified correct (including questions from the floor)
- Current office bearers stand down and election of office bearers for the coming year
- A timetable of ordinary meetings for the coming year to be agreed
- All Community Councillors to agree to abide by the Code of Conduct

Confirmation of the names of new Office bearers should be sent to Scottish Borders Council for their records. Training book 7.7 AGM states includes Secretary annual report (also in Doc 3 Constitution) but not in SBCC Scheme

8. AGENDAS

8.1 Preparation of agendas for meetings of the Community Council is one of the responsibilities of the Secretary, in consultation with the Chair, who would make the final decision on what items were to be considered at any particular meeting. While there is no prescribed form of agenda for such meetings (as Community Councils are involved in such a wide range of matters) there are however certain items which would be expected to appear on an agenda:

- Apologies – as a first item the Chair will call for any apologies for absence and this provides a check that those Community Councillors present are sufficient in number for the meeting to be quorate. The apologies received should be recorded in the Minutes of the meeting.

- Minutes of Previous Meeting – these need to be approved as an accurate record, subject to any amendments proposed and seconded. It is important to remember that the Minutes need to reflect what actually happened at the meeting.
 - Other items which might include local issues raised with the Chair or Secretary by Community Councillors or members of the public; consideration of planning applications; consideration of any consultation; report on correspondence received; an update from the SBC Local Councillors, etc.
 - Open Forum – this allows members of the public to raise matters of local interest or concern
- 8.2 There is also the possibility that agenda items may have to be continued to a future meeting where it is felt that there is not enough time, or enough information, to consider them fully.

9. DECISIONS AND VOTING AT COMMUNITY COUNCIL MEETINGS

- 9.1 Most decisions at Community Council meetings are reached by consensus. It should be noted that *ex officio* members can take part in the discussion and debate but not any decision or vote. However, where it is clear that more than one view persists, the Chair will call for a formal motion to be put before the meeting. Any Community Councillor may put forward a motion, which needs to be seconded by another Community Councillor. Amendments to this motion need to be proposed by a different Community Councillor and seconded by a different Community Councillor. Any motion or amendment which fails to be seconded automatically falls. A member of the public or an *ex officio* member present at the meeting are not entitled to propose or second either a motion or any amendment.
- 9.2 Decisions of the Community Council shall be by majority vote of the Community Councillors present, eligible to vote and voting. When voting on decisions, the Chair shall have a casting as well as a deliberative vote. Voting on decisions shall be by show of hands, with the exception of the election of office bearers which may be by secret ballot. The Chair shall ensure that decisions are reached in a democratic manner.
- 9.3 Beyond this, it is very much up to the individual Community Council and the Chair how they wish to conduct voting at their meetings, as long as it is conducted in a democratic manner, and is fair and transparent.

10. MINUTES OF MEETINGS

- 10.1 Minutes must be taken of all meetings, be they ordinary, special or Annual General meetings. These Minutes should be in a consistent format and record:
- The date of the meeting
 - Time and location of the meeting
 - Those present
 - Apologies received
 - Who was in the Chair
 - All decisions including any votes and also who is responsible for actioning the decisions
 - Any agreed expenditure
 - Details of all the items discussed.
- 10.2 It is not necessary to take a verbatim minute where every word is recorded, except for any motion or amendment where there is a vote, but a summary of the discussion and the decisions/actions taken. Good minute taking is a skill, so that neither too little nor too much detail is included. Minutes of meetings should be an accurate record of the whole proceedings and business should not be deliberately omitted, so that there is a clear and proper record of the entire proceedings and decisions. A summary of the discussion, highlighting the main points may be included, but the minute is a record of the decisions of the Community Council. If a liability is to be taken on, then the amount of money involved and the purpose should be clearly minuted. Important decisions cannot and should not be taken at informal meetings or by email correspondence or in unrecorded meetings amongst only some of the Community Councillors. If some authority is to be given to one or more Community Councillors to do something on behalf of the whole Community Council, then that authority should be given at a formal Community Council meeting and it should be clearly recorded exactly what they are being authorised to do. Any action taken under that sort of authority should be reported back to a Community Council meeting and minuted.
- 10.3 Someone reading the minute who was not at the meeting should be able to follow what happened. As a permanent record of the Community Council's business, Minutes are a very important document with both historical and legal implications. Responsibility for Minutes lies with the Secretary, although a separate Minute Secretary can be appointed if that is more convenient. The format of Minutes closely follows that of the agenda with each item separately numbered. Draft Minutes of any meetings should be available at a reasonable time after the meeting and sent out to all Community Councillors, on the understanding that these will be considered for approval as a correct record at the next meeting of the Community Council. A Minute can only be altered if it is factually inaccurate and not to reflect subsequent actions which happened after the meeting. Such alterations need to be approved at the next meeting by a majority of members of the Community Council who were in attendance at that original meeting.

- 10.4 It is the responsibility of the Community Council to retain Minutes of all meetings for future reference and passed on to each new Secretary for safe keeping, so a full record of the work of the Community Council is kept. These Minutes should also be available to members of the community who wish to view them. Community Councils with websites or social media pages may wish to make them available online.

11. MEETINGS PROTOCOL

- 11.1 It is the role of the Chair to run the meeting of the Community Council. Any change to the order of business on the agenda should be notified at the beginning of the meeting and then each item shall be taken in order. The Chair should ensure each Community Councillor has sufficient time to participate and put forward their views at each item, without there being repetition or interruption. Care needs to be taken that no one person dominates proceedings and it is usual that someone would speak only once during a debate unless asking for clarification or to answer a particular point. It may be helpful to have an item on the agenda "Any Other Business" to raise any matters not on the agenda but care needs to be taken that a major issue for the community is not raised here and a conclusion reached within the one meeting unless there is a timing issue or the matter requires an urgent decision.
- 11.2 While members of the public are entitled to attend meetings of the Community Council to listen to the proceedings, it is at the discretion of the Chair as to how much they are included in any of the discussions. However, it is considered good practice that, where appropriate, once the Community Councillors have spoken that the Chair asks whether any members of the public present wish to ask a question or raise a point. It is helpful if the Chair explains this at the beginning of the meeting.
- 11.3 Members of the public who wish to speak on a specific item must notify the Chairman in advance of the meeting and will be given the opportunity to speak after all Community Council members have spoken on the matter.
- 11.4 It may also be prudent to include an "Open Forum" or "Open Questions" item on the agenda for members of the public to ask about specific issues affecting the community. It may not be possible to answer these at the meeting so responses should be issued or included at the next meeting of the Community Council.

- 11.5 In the event that any Community Councillor or member of the public is disregarding the authority of the Chair or any other person present at the meeting, or conducts themselves in a disruptive, obstructive or offensive manner, a suitable warning about their behaviour should be issued by the Chair. If that has no effect then a motion may be moved and seconded to remove the individual(s) from the meeting. If that motion is supported by the majority of the Community Councillors present and voting, then the motion will be declared carried and the individual(s) will be required to leave the meeting immediately.
- 11.6 It is hoped that decisions of the Community Council will be reached by consensus, but if not, then a vote will be required. A motion needs to be proposed and seconded, and any amendments similarly proposed and seconded. A Community Councillor may propose or second only one Motion or Amendment per item. The Chair then takes the vote via a show of hands and that vote is recorded in the minute. Should there be more than one amendment then, depending on the nature of the amendments, they can either be taken against each other and the winning amendment taken against the motion, or they can be taken one after the other against the motion.
- 11.7 The Chair decides all questions of order, relevancy and competency arising at meetings of the Community Council and their ruling shall be final and shall not be open to discussion. In deciding these areas, the Chair shall have particular regard to the relevance of the issue to the community and ensure that the discussion and proceedings are conducted in such a manner that decisions are reached in a democratic manner.

12. RESPONDING TO CONSULTATIONS

- 12.1 Community Councils will be sent a number of consultations from different sources, requesting a response. These consultations could be about planning applications, Local Development Plans, licensing of new premises for the sale of alcohol, place planning, NHS Borders health plans, police plans, and where there is a geographic link to a physical or policy development likely to impact on people who live in the Community Council area.
- 12.2 In providing responses, Community Councils should ensure that they reflect the balance of community interest and that the views expressed are set out in writing and relevant to the issues under discussion. Community Councils should make every effort to participate in and respond to relevant consultations to ensure their community is represented in matters of interest.
- 12.4 Community Councils have a formal, statutory role in the planning system and must be consulted on a variety of issues. Advice on

Community Councils and Planning is given in PAN 47 ([COMMUNITY COUNCILS AND PLANNING REVIEW OF THE TOWN AND COUNTRY PLANNING SYSTEM IN SCOTLAND Planning Advice Note 47 - Planning Advice Note 47: community councils and planning: planning system review - gov.scot \(www.gov.scot\)](#)). A separate briefing note from Scottish Borders Council on planning guidance for Community Councils is also available. Each Community Council is given a point of contact within the Planning and Regulatory Services Division. This point of contact will be a Planning Officer with responsibilities in the Community Council area who will be able to give advice on the planning process to Community Councillors.

- 12.4 It is the statutory duty of a Community Council to find out what people in the community feel about planning applications and other planning matters and to express these feelings to Scottish Borders Council. Any individual or organisation has the right to submit comments on a planning application (known as representations). Many Community Councils submit comments in support of or objection to an application after viewing the application details. The representation method is generally used when the Community Council has a clear understanding of local opinion on the proposal, or where the proposal is relatively minor but nevertheless raises a wider local issue. Representations are accepted on the understanding that the views contained therein are the views of the Community Council.

13. MEMBERSHIP OF THE COMMUNITY COUNCIL

- 13.1 The Scheme sets out the types of membership of Community Councils. For each type of member, the important questions are how they become members, how that membership comes to an end, and what voting rights they have at meetings. Elected and certain co-opted members have voting rights (co-opted members after a time) and thus make the decisions of the Community Council. *Ex officio* members have the right to be notified of, attend and participate in the meetings of the Community Council but do not have any voting rights. There are maximum and minimum numbers of such members and also a limit on the proportion of the membership that can be co-opted.

Community Councillor (Elected)

- 13.2 These are full members of the Community Council who are elected, be that at a full or by-election. Their membership, assuming they continue to meet the criteria for membership, runs until the next full election. They have full voting rights at meetings of the Community Council.

Co-opted Members

- 13.3 There are two types of co-opted members to a Community Council – the first type is those who have been co-opted for a particular

projects or because they have a particular set of skills required over a specific period. They can attend meetings and participate in the debate at meetings but never have voting rights. The second type of co-opted member is someone who has been nominated, seconded and appointed by the current voting membership of the Community Council to fill a vacancy. They must be the criteria required to stand for election to a Community Council. They achieve voting rights after attending 3 meetings or after 6 months has passed, whichever is sooner. Their membership runs until either the next full election or the next by-election. There is a limit on the number of co-opted members that a Community Council can have – no more than one quarter of the number of elected Community Councillors. Should the number of elected Community Councillors fall below the minimum membership at any time, then a by-election must be held.

Ex Officio members

- 13.4 These are automatic members of the Community Council who are members because of another elected office. These members are the Councillors from Scottish Borders Council whose wards fall wholly or partly within the geographical area of the Community Council. Their membership is linked to that other elected office so when they cease to be an SBC Councillor, their membership of the Community Council comes to an end. The Community Council has no powers to bring their membership to an end. These members are not subject to the various eligibility criteria that apply to other Community Council members and *Ex officio* members can never have voting rights.

Membership levels

- 13.5 Scottish Borders Council has agreed the Community Council Scheme which includes a maximum and minimum number of voting members of each Community Council. Where the membership falls below that minimum number then a by-election is held and if that fails to bring the Community Council up to the minimum level required then the Community Council goes into abeyance for a period of 3 months, after which a full election is held.

Eligibility criteria for voting members and disqualification

- 13.6 The Scottish Borders Community Council Scheme sets out the eligibility criteria that voting members (elected or co-opted) must meet, which are:
- They must reside in and be named on the electoral register for that Community Council area;
 - They must be a least sixteen years of age; and
 - They must not be elected to serve on Scottish Borders Council, the Scottish Parliament or the UK Parliament.
- 13.7 Voting members must meet these criteria to qualify for election or co-option. They must also continue to meet these criteria throughout their membership. Should the circumstances of a

member change during the term of their membership so they no longer meet the above criteria, then they will be disqualified and their membership automatically ceases.

- 13.8 Where a voting member of a Community Council fails to attend any of the meetings of that Community Council for a period of 6 months or more, then the Community Council has powers within the Scheme to remove that member. This is an option for the Community Council and not a requirement; it is open to the Community Council not to remove such a member if it is felt that there are facts and circumstances which reasonably justify such an absence.

Record of Membership

- 13.9 Each Community Council is responsible for maintaining records of their membership. Where that membership changes, be that by way of resignation, automatic disqualification, removal for non-attendance or filling of a vacancy by co-option or by-election, then the Secretary should advise the Democratic Services Team at SBC.

14. COMMUNITY COUNCIL FINANCES

- 14.1 Scottish Borders Council provides each Community Council with an administrative grant to assist with their operating costs. The level of this grant is set by Scottish Borders Council and, at the moment, is based on population in the Community Council area. The purpose of the grant is to cover the running costs of the Community Council, such as:

- Insurance
- Auditor's fees
- Production and circulation of agendas, reports and minutes
- Maintenance of a website
- Stationery
- Photocopying
- Postage
- Travel costs
- Telephone costs
- Venue costs for meetings

[Expenditure mentions audit fees which is incorrect description.](#)

[Expenditure should include honoraria to paid office holders.](#)

- 14.2 Community Councils may generate further income from other sources such as SBC's neighbourhood fund, wind farm benefits, other external grant funds, etc. The accounts of the Community Council should still disclose all income, from whatever source it is obtained, and all expenditure. A Treasurer seeking additional funding on behalf of the Community Council should seek formal, Minuted approval of the Community Council before making any application.

- 14.3 Each Community Council should have a cash book and all income and expenditure should be recorded in it. The date, description, amount and receipt number should also be recorded. The Community Council should nominate two unrelated office bearers to act as authorised signatories to the Community Council bank account. Any changes to the authorised signatories should be approved by the Community Council. [At point 14.3 it mentions 2 signatories to the bank account. This is inconsistent with the policy of not being able to sign a cheque to yourself.](#)
- 14.4 The level of cash held by the Community Council should not be excessive and should be in proportion to the monthly expenditure. The best practice is that all income received should be banked and should not be used to meet expenditure. If funds are required for incurred expenditure, they should either be paid by cheque or bank transfer so that the bank statement will more accurately reflect specific items of income or expenditure.
- 14.5 All expenditure must be approved in advance by the Community Council. All expenditure must be accompanied by proof of purchase i.e. receipt and such receipts should be given a sequential number and filed accordingly. Details of the expenditure should be recorded in the cash book as soon as the expenditure has incurred. Where a receipt is not available then the person making the purchase should give full details of what was purchased, when and where, and for what reason. The Treasurer should carry out a bank reconciliation once each bank statement becomes available to ensure that the bank balance agrees with the balance recorded in the cash book. [At 14.5 it states that all expenditure should be approved in advance by the Community Council. This is totally impractical. The treasurer's job would be impossible if every single item of expenditure had to be approved in advance. The treasurer needs discretion to approve payments with the agreement of the co-signatory to the bank account.](#)
- 14.6 A Community Council should also retain an inventory detailing any assets it holds and this should be updated on an ongoing basis for additions and deletions, with an annual check as a minimum.

15. INSURANCE

- 15.1 Scottish Borders Council arranges and meets the cost of insurance covering a number of risks for all Community Councils in the region; these risks being public liability, money cover, employers' liability and personal accident (standard & employees). It is the responsibility of the Community Council to ensure that the cover provided is adequate for their purposes and they could carefully check the terms of the policy. This check should be carried out

each year to ensure that there has been no change to the risks covered, limits of cover or terms of the policy. Any specific questions on the policy should be addressed to the Community and Partnerships team at Scottish Borders Council.

- 15.2 Community Councils should also ensure that the standard cover is adequate for any activity/activities they undertake. In particular, while the policy will ordinarily cover the normal business activities of a Community Council, such as their regular meetings open to the public, it may not cover special events either organised by the Community Council or in which the Community Council participates. Advice can be sought from the Community and Partnerships team. If it is determined that an activity is not covered by the policy, it may be possible to arrange additional cover, there is likely to be an additional cost for this. A Community Council may also make its own arrangements for such additional cover.

16. DATA PROTECTION

- 16.1 Community Councils act in a variety of roles and will handle personal information in terms of the Data Protection Act 2018 (DPA) and the General Data Protection Regulation (GDPR) while doing so. Examples include maintaining contact lists, minuting proceedings, and publishing correspondence, agendas, minutes, etc. They may also retain details of members of their community who have written to them or have spoken at meetings on a matter, or in connection with matters which they are taking up on behalf of a member(s) of the community.
- 16.2 Personal information means data which relates to a living individual who can be identified:
- From that data; or
 - From data and other information which is in the possession of, or is likely to come into the possession of, the data controller.
- Personal information also includes any expression of opinion about the individual.
- 16.3 When processing personal information as Community Council must comply with the provisions of the DPA and the GDPR. A Briefing Note on those principles has been prepared and appears as an Appendix to this Handbook
- 16.4 Community Councils must register with the Information Commissioner as "data controllers". Scottish Borders Council undertakes this task and pays the renewal fee on behalf of each Community Council.

17. EQUALITY, DISCRIMINATION AND UNCONCIOUS BIAS

- 17.1 It is important that Community Councils ensure that they comply with Equalities legislation. They must promote equal opportunities for participation and do all they can to prevent unlawful and unfair discrimination, harassment or victimisation on the grounds of age, race, sex, disability, sexual orientation, religion or belief, gender reassignment/ trans/ transgender identity, marriage or civil partnership, or pregnancy or maternity.
- 17.2 In doing so, Community Council members should be aware of unconscious bias. When we meet or are told about people, we often judge them based on what we see or hear, like their age, weight and attractiveness. But we may also judge them on their accent, the colour of their skin, where they studied or their socio-economic status. Rapid processing occurs when our brains make quick judgements of people and situations around us, often without realising it. This can sometimes lead to unconscious bias. Our biases are likely influenced by our own background, culture and personal experiences. However, these biases can also lead to some people or groups being treated less favourably and discriminated against. Unintended bias is more likely to happen when we make fast decisions or off the cuff remarks on the spur of the moment, so we need to take a step back and think. We need to deal with bias and admit when we have made a mistake and apologise, but it is better not to have made the mistake in the first place.
- 17.3 Equality means protecting everyone and anyone from discrimination or unfair judgement. It is preventing people being treated differently or unfairly by others on any basis such as gender, race, age or beliefs. Diversity means that all differences are respected. Individual rights and self-identification is to be encouraged. Discrimination is when someone is treated differently either negatively or positively because of factors like social class, gender, sexual orientation, or age. For the target of the discrimination, the impact of being subjected to unfavourable treatment, just because of who they are, can be degrading, hurtful and devastating.
- 17.4 If discrimination is not dealt with, the knock on effect can lead to a loss of trust and confidence in the Community Council. Any allegations or complaints about discrimination must be treated seriously. As a Community Councillor, you must keep an open mind at all times. It is extremely important that all Community Councillors, and indeed any members of the public attending Community Council meetings, are very aware of the language they use and treat all members of the community equally. In particular, be very careful of making any throw away or off the cuff remarks or asides in meetings. You may think these are harmless but for others than may not be the case, therefore this is unacceptable. It is not what you say, but how it is received by others that matters.
- 17.5 Where to take care –

- Gender assumptions – never assume a person’s gender identify based on their name or their appearance or dress; instead use gender inclusive language such as “they, them, theirs”.
- Don’t use labels – lassie, laddie, menopausal, dear, honey, fat, tubby, crinklies, etc.
- The “just banter” defence – does not work and is no defence against harassment or discrimination!
- Do not be patronising so avoid condescending language e.g. someone is confined to a wheelchair
- Be very aware of ethnicity, cultural and religious diversity – we live in a multi-cultural society with a rich variety of traditions, cultures and values. Unintentional racism is when the views, values and attitudes of the dominant group (in the UK, white) are exclusively presented.
- Avoid stereotyping – this is the attribution of particular characteristics (appearance, temperament, potential, etc.) to all members of an assumed group or ‘race’. Race is a social and political construct rather than a biological one.
- Terminology – avoid irrelevant modifiers e.g. male nurse. Some words may have different connotations when used of women and men e.g. ‘ambitious’ could mean approval of a man, but is often disparaging when said of a women. Men “talk” but women “gossip”, is another example.

17.5 The test is, would what you have said about a person mean the same and sound right if you said it of someone of another sex, age, race. Most people at some point will have said something that they either immediately regret or look back on and cringe. They may inadvertently use a term that someone else finds offensive.

18. CONTACTS IN SCOTTISH BORDERS COUNCIL

- 18.1 For all enquiries regarding elections or governance, please contact the Council’s Democratic Services team – communitycouncils@scotborders.gov.uk
- 18.2 For all enquiries regarding insurance, data protection and grant funding, please contact the Council’s Community & Partnerships team – communitygrants@scotborders.gov.uk

This page is intentionally left blank

Scottish Borders Council

Guide for Community Council Elections

July 2023

Contents

Step by step election process	3
Example time line for a community council election	5
Flowchart: Community council election procedure	6
Relevant extract from Community Council Scheme (2014)	8
Appendix 1: Nomination form	11
Appendix 2: Election notice	13
Appendix 3: Letter following nomination period	14
Appendix 4: Letter re non-formation of community council	15
Appendix 5: Letter re declaration of new community council	16
Appendix 6: Agenda	17
Appendix 7: Notice of uncontested election	18
Appendix 8: Letter re contested community council election	19
Appendix 9: Community council election ballot paper	20
Appendix 10: Letter re ballot results	22
Appendix 11: Notice of contested election	23

STEP BY STEP ELECTION PROCESS

Returning Officer

You will need to appoint a Returning Officer for the election and this individual must have the approval of Scottish Borders Council. This cannot be anyone who is standing as a candidate or a close relative of such an individual. You may approach one of the SBC Elected Members to carry out this role or another independent local person. The person appointed as Returning Officer is responsible for ensuring that the election is run in a fair, open and transparent way and that all rules and timelines are followed.

Prior to nomination period opening

1. With the assistance of one of the Democratic Services Officers of Scottish Borders Council, the Returning Officer will need to draft out the timetable for the election and set the date when nomination forms will be made available. If there is a specific date/week when the new Community Council needs to be in place then it is usually easier to work backwards from this date. (An example timeline is given at the end of this section)
2. In working out the timetable, the Returning Officer must ensure that nomination forms are available for a minimum of 14 days and a maximum of 28 days, so 21 days seems to be about right but this should be extended to 28 days if over a holiday period. This maximum period may be extended by up to 7 days if insufficient nominations are received. When time is tight the minimum period of 14 days can be used but no less. (A template for a nomination form is contained in Appendix 1).
3. As well as setting a closing date for receipt of nomination forms, you need to set a closing time as well.
4. As well as making nomination forms and the election timetable available online, the Returning Officer also has to identify locations locally e.g. shops/library/community centre which can hold a stock of blank nomination forms. Also consider whether you as Returning Officer will hold some blank nomination forms. Nomination forms can be put onto the SBC website and SBC can also put information out on its social media pages on any upcoming election with links to details/forms. Contact the Council on communitycouncils@scotborders.gov.uk and one of the Democratic Services Officers will help you with this.
5. You need to identify where completed nomination forms should be returned to e.g. a ballot box left in a local shop, Returning Officer, SBC office (if appropriate). It is possible to have several return points as long as completed forms are collected and returned to a central point for validating once the nomination period has closed.
6. It is helpful to issue a press release to raise awareness of the election. As advised in paragraph 4, SBC can help with this.
7. You need to produce election notices for display on local notice boards. (A template for an election notice is contained in Appendix 2).
8. You then need to distribute blank nomination forms and ballot box(es) as required before the start of the nomination period.

On closure of the nomination period

9. a) Check the validity of all submitted nominations forms, i.e.
 - Candidates are on the Electoral Register for the community council area
 - No-one has proposed and/or seconded more than one candidate
 - b) If the number of valid nominations received is at least half of the number of seats available, contact candidates to advise them that they have seven days should they wish to withdraw their nomination. (A template letter for this is contained in Appendix 3). If you do not have enough nomination forms (i.e. less than half), then consider extending the nomination period by a further 7 days and try to do further local publicity to encourage people to submit a nomination.
10. If the number of valid nominations received is less than half of the number of seats available, then you need to contact candidates to advise that the community council cannot be re-established and three months must pass until the next election can be held. A public notice should also be given by the Returning Officer that no Community Council shall be formed at this time. Should a second election fail to attract enough valid nominations a period of six months must pass before an election to re-establish the community council be held. (A template letter regarding the non-formation of a community council is contained in Appendix 4.)

Following seven day withdrawal period

11. If the number of valid nominations remaining is equal to or not less than half the number of seats available, then the Returning Officer needs to make arrangements for the first meeting of the new community council. Contact candidates to advise them that the new community council has been established and set/send agenda for first meeting of new community council. Notice of an Uncontested Election should be displayed in the local area and a press release with details of new community council. (Templates for a letter declaring the new community council and a notice of an uncontested election are contained in Appendices 5 and 6 respectively).

or

12. If the number of valid nominations remaining exceeds the number of seats available you need to make arrangements for a ballot to be held. Polling station(s) should be situated within the community council area and open for a minimum of four hours between 8am and 8pm. A press release needs to be issued and notices put up locally to raise awareness of the ballot. (Templates for a letter to candidates re a contested election and a ballot paper are contained in Appendices 8 and 9 respectively.)
13. The count may be carried out immediately after the ballot closes or at a later date set by the Returning Officer. Support for this can be given by the Democratic Services team at Scottish Borders Council. You need to contact candidates with the ballot result although it may not be appropriate to issue the number of ballots for each candidate unless candidates have been present at the count. Notice of the contested election should be displayed in the local area. (Templates on a letter regarding ballot paper results and a notice of a contested election are contained in Appendices 10 and 11 respectively.)

14. As Returning Officer, you need to keep the CC (if appropriate) informed of the process and encourage awareness raising through word of mouth.

EXAMPLE TIME LINE FOR A COMMUNITY COUNCIL ELECTION:

Nominations open	26 May (nomination papers available 21 days)
Nominations close	16 June
Cooling Off Period	23 June
New CC declared	30 June

Assuming a ballot is not required the new community council can be declared as soon as 30 June (five weeks from the opening of nominations).

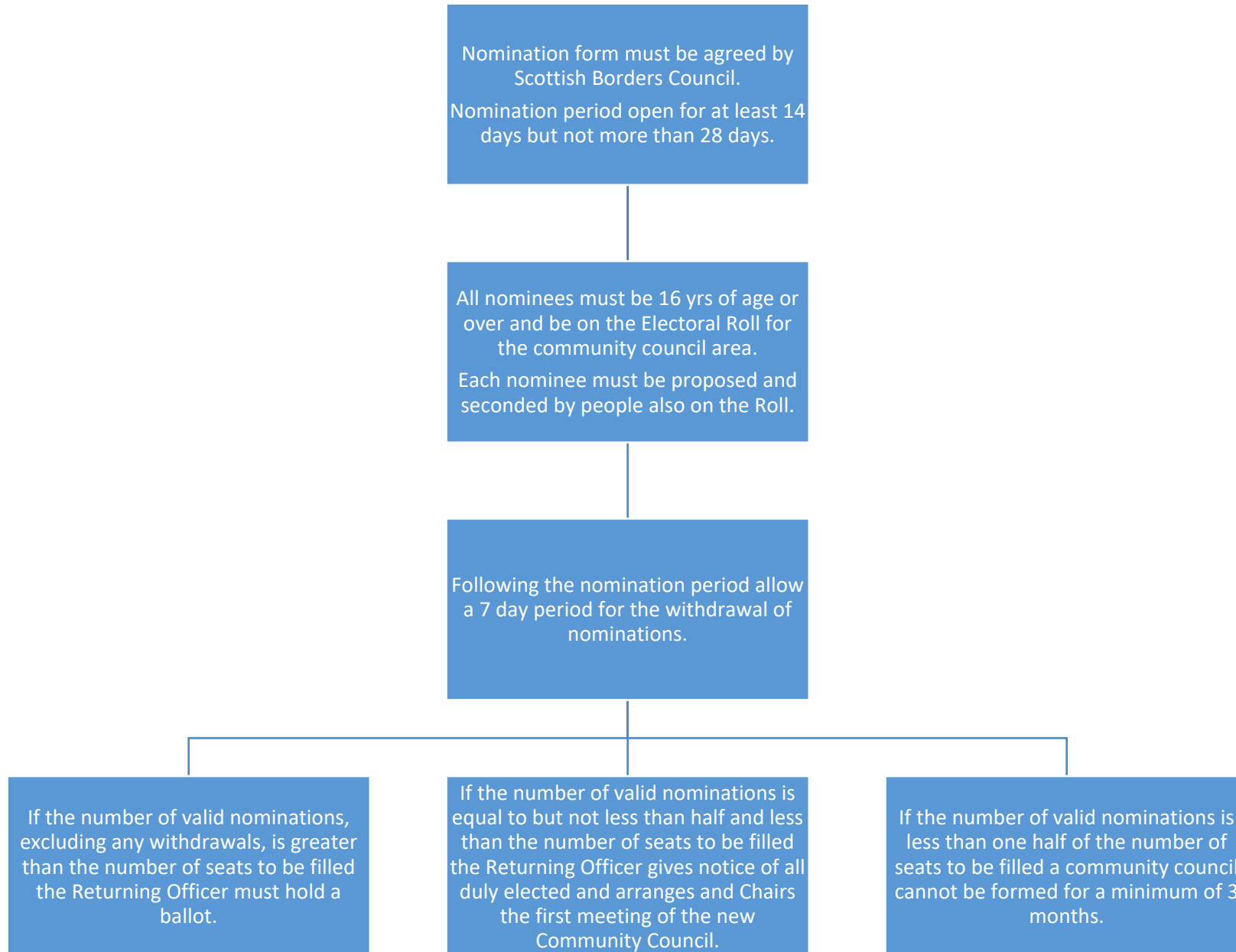
FLOWCHART: COMMUNITY COUNCIL ELECTION PROCEDURE

Prior to the expiry of the term of office the Community Council must appoint a Returning Officer (to be agreed with Scottish Borders Council). The Returning Officer **must not** be either a Community Council member or candidate, nor a close relative of a candidate.

A list of community council seats are appended to the Scheme for Community Councils.

When validating nominations it is essential that the community council boundary map is checked alongside the Electoral Roll.

Procedures for holding a ballot are available in the Community Council Scheme.



RELEVANT EXTRACT FROM COMMUNITY COUNCIL SCHEME

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. The nomination period shall not be less than 14 and not more than 28 days, although this period may be extended by up to 7 days if insufficient nominations are received. After this, 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 an event, no further application for the establishment of a Community Council for that area shall be considered until 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 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. Returning Officer

- 9.1 The Returning Officer for the first election to a Community Council shall be the Director Corporate Governance of 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 Director Corporate Governance.
- 9.2 The Returning Officer for any Community Council election or by-election shall not be an elected member of that Community Council or a candidate in that election to that Community Council. **An Elected Member of Scottish Borders Council or an officer of the Council or another person may act as Returning Officer.**

10. Voting Arrangements

- 10.1 People included in the section(s) of the Electoral Roll for the Community Council area 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 them 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 which shall contain:
- 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 of members elected.

**SCOTTISH BORDERS COUNCIL
COMMUNITY COUNCIL ELECTIONS 2014**

XX COMMUNITY COUNCIL

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						
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

XX Community Council
(Note 1)

in the XX Sub-Division
(Note 3)

PLEASE NOTE THAT YOU MAY ONLY PROPOSE OR ACT AS A SECONDER FOR 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.

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 Scheme for 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. Each Candidate shall be nominated by a Proposer (who may be the candidate) and a Secunder, 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. An individual can only propose or second one candidate.

COMPLETED NOMINATION FORMS SHOULD BE RETURNED TO:

By no later than

NOTICE OF ELECTION

**Your Community Council needs
YOU**

XX COMMUNITY COUNCIL

Nominations are invited from members of the community whose names appear on the current Electoral Register for XX Community Council area.

The Community Council consists of a maximum of XX Members. In the event of there being more nominations than places on the Community Council, an Election will be held.

Nomination Forms can be obtained from:

or

THE FINAL DATE AND TIME FOR THE RETURN OF COMPLETED NOMINATION FORMS IS XX.

FORMS (ORIGINALS) SHOULD BE RETURNED TO:

**LETTER TO CANDIDATES FOLLOWING CLOSURE OF NOMINATION
PERIOD**

Dear

RE: XX COMMUNITY COUNCIL ELECTION

Thank you for your interest in standing for the new XX Community Council. I am pleased to let you know that your valid nomination form was one of XX. There are XX places available.

All candidates have until XX to withdraw their nomination form should they no longer wish to stand as a community councillor.

If I have not heard from you by the XX, I will assume that you are happy for your nomination to stand. I will contact you again after this date with the details of either the ballot for the XX available places or the first meeting of the new community council.

If you have any queries in the meantime please do not hesitate to contact me.

Yours sincerely

Returning Officer

LETTER TO CANDIDATES RE NON-FORMATION OF COMMUNITY COUNCIL

Dear

XX COMMUNITY COUNCIL ELECTION

Thank you for your interest in standing for the new XX Community Council. I am pleased to let you know that your valid nomination form was one of XX received. Unfortunately a minimum of XX new community councillors are required in order for a new community council to be established.

A period of three months must now pass before another election may be called during which time there will be no community council for the XX area.

If you have any queries please do not hesitate to contact me.

Yours sincerely

Returning Officer

LETTER TO CANDIDATES RE DECLARATION OF NEW CC AND DATE OF MEETING

Dear

RE: XXX COMMUNITY COUNCIL ELECTION

As Returning Officer for XXX Community Council election, I am delighted to be contacting you to welcome you as a community councillor to the new XXX Community Council.

XX valid nominations remain enabling me to declare the new community council.

The inaugural meeting of the new community council will take place on XX at Xpm in XX. The main agenda items will be the election of office bearers. I have enclosed a copy of the agenda.

Members of the new community council are:

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- etc

Yours sincerely

Returning Officer

AGENDA

Agenda of the first meeting doesn't include the undertaking by Cllrs to abide by Code of Conduct, whereas it does in Doc 4 Standing orders.

**XX COMMUNITY COUNCIL**

A MEETING of the XX COMMUNITY COUNCIL will be held at **XX**

BUSINESS		
1.	Welcome and Introduction. Welcome and introductions by XX (Returning Officer).	
2.	Apologies for Absence.	
3.	Order of Business.	
4.	Declaration of Interests.	
5.	Membership of Community Council. Note new membership of Community Council.	
6.	Appointment of Chair. Nominations to be invited by XX	
7.	Appointment of Vice - Chair. Nominations to be invited by the Chair.	
8.	Appointment of Secretary. Nominations to be invited by the Chair.	
9.	Appointment of Treasurer. Nominations to be invited by the Chair.	
10.	Any Other Items which the Chairman Decides are Urgent.	
11.	Date of Next Meeting.	

Membership of Community Council :-

Please direct any enquiries to XX, Tel:
E-mail:

NOTICE OF UNCONTESTED ELECTION**ELECTION OF COUNCILLORS FOR THE XXX COMMUNITY COUNCIL AREA**

The following candidates remain validly nominated for the elected Community Council for the XXX area and as the number of candidates remaining validly nominated does not exceed the number of vacancies on the Community Council, there will be no Poll, and the said Candidates are hereby declared to be elected Councillors of the said Community Council. There remains XXX vacancies on the Community Council.

Name of Candidate Remaining Validly Nominated	Electoral Register No.

*Electoral Numbers: distinctive numbers from the Register of Electors for both Polling District and Elector, e.g. 2203/333.

**LETTER TO CANDIDATE RE CONTESTED COMMUNITY COUNCIL
ELECTION**

Dear

RE: XX COUNCIL ELECTION - BALLOT

I am writing to let you know that there are XX candidates for the XX places available on the new XX Community Council resulting in the requirement for a ballot to be held.

The ballot will be held on DATE between am/pm – am/pm. Voting forms and the ballot box will be available in the XX during this time. All those in the XX Community Council area, who are entitled to vote in a Local Government Election on that day, shall be entitled to cast a vote in the ballot.

XX will oversee the ballot.

There will be no alternative of postal voting or voting by proxy. Poll cards will not be issued; local residents should present themselves between am/pm – am/pm at the XX in order to vote. Each voter will be entitled to XX votes. The XX seats will be filled by the XX candidates with the highest number of votes.

The votes will be counted immediately following the ballot/the following day at XX and the new community council will then be declared.

The candidates standing for XX Community Council are as follows:

I will issue a press release to the local media but will not undertake any canvassing on behalf of candidates. Should you wish to undertake canvassing please do so.

If you have any queries whether general or specific to the process please do not hesitate to contact me.

Yours sincerely

Returning Officer

TEMPLATE COMMUNITY COUNCIL ELECTION BALLOT PAPER

No:

**Community Council Election for the
XXXX Area**

Date of Election – XXXX

XXX COMMUNITY COUNCIL

VOTE FOR NOT MORE THAN XX CANDIDATES
CASTING NOT MORE THAN ONE VOTE FOR EACH CANDIDATE

1	SURNAME (Full name)	
2	SURNAME (Full name)	
3	SURNAME (Full name)	
4	SURNAME (Full name)	
5	SURNAME (Full name)	
6	SURNAME (Full name)	
7	SURNAME (Full name)	
8	SURNAME (Full name)	
9	SURNAME (Full name)	
10	SURNAME (Full name)	
11	SURNAME (Full name)	
12	SURNAME (Full name)	
13	SURNAME (Full name)	

TEMPLATE LETTER TO CANDIDATES RE BALLOT RESULT

Dear

RE: XX COMMUNITY COUNCIL ELECTION

I am writing to inform you of the results of yesterday's contested election for XX Community Council.

The ballot attracted XX voters (XX%).

The following candidates were duly elected:

The first meeting of the new Community Council will take place on XX at XXpm in the XX. Please find a copy of the agenda enclosed. As Returning Officer, I will chair the meeting until the new Chairperson is elected.

If you have any queries please do not hesitate to contact me.

Yours sincerely

Returning Officer

NOTICE OF CONTESTED ELECTION**ELECTION OF COUNCILLORS FOR THE XXX COMMUNITY COUNCIL AREA**

Following the Poll the following candidates are validly elected for the Community Council for the XXX area. The said Candidates are hereby declared to be elected Councillors of the said Community Council.

Name of Candidate Validly Elected	Electoral Register No.*
Returning Officer : Date :	

*Electoral Numbers: distinctive numbers from the Register of Electors for both Polling District and Elector, e.g. 2203/333.

This page is intentionally left blank

SCOTTISH BORDERS COUNCIL
CONSTITUTION OF XX COMMUNITY COUNCIL

1. NAME

The name of the Community Council shall be XX Community Council (hereinafter referred to as "the Community Council").

2. AREA

The area of the Community Council shall be that part of the Scottish Borders, the boundaries of which are shown delineated on Map Number X annexed to the principal copy of the Scottish Borders Community Council Scheme adopted by the Scottish Borders Council (hereinafter referred to as "the Scheme").

3. PURPOSES/FUNCTIONS

3.1 In addition to any other purpose which it may pursue, the Community Council shall:-

- (a) ascertain, co-ordinate and express to the Scottish Borders Council as the Local Authority for its area, and to other public authorities, the views of the community which it represents in relation to matters for which those authorities are responsible;
- (b) take pro-active steps to engage with all members of the community fairly and ensure all Community Council meetings are held in accessible venues;
- (c) take such action in the interests of that community as appears to it to be expedient and practicable.

3.2 The Community Council shall be non-party in politics and non-discriminatory and shall represent all persons in its area.

4. COMPOSITION OF THE COUNCIL

4.1 The Community Council shall be composed of:-

- (a) XX members who have been elected in the manner prescribed in the Scheme.

- (b) the Scottish Borders Councillor(s) for the area covered by the Community Council or any part of it, who shall have ex officio membership of the Community Council during their period of office for the Local Authority but shall have no entitlement to vote, move motions or amendments, or hold office in the Community Council. No Member of the Scottish Borders Council may simultaneously be a member of the Community Council other than in an ex officio capacity.

4.2 The Community Council may include co-opted members in the following circumstances:-

- (a) the Community Council 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 sixteen 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
- (b) when the elected membership is less than the maximum number of elected members but is equal to, or more than one-half of that number, or where casual vacancies arise during a term of office, the Community Council 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. 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).

4.3 In the event of the number of elected Members of the Community Council, in the interval between elections, reducing to less than one-half of the maximum number specified in paragraph 4.1 (a) above, a by-election shall be held not later than two months after this reduction occurs (unless the next ordinary election is due to occur within six months of the reduction occurring). The number of vacancies to be filled at the by-election shall be the number by which the elected membership falls short of the maximum.

5. METHOD OF CO-OPTION OF MEMBERS

5.1 A proposal to co-opt a person or persons to the Community Council under paragraph 4.2(b) above, shall require a Notice of Motion to that effect to be included on the Agenda for the appropriate meeting of the Community Council, and such Notice of Motion shall include the name of the person proposed to be co-opted, together with that person's number on the current Electoral Register (where appropriate) and the names of the proposer and seconder who shall be elected members of the Community Council.

6. CASUAL VACANCIES

A casual vacancy shall be deemed to have arisen 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 has failed to attend a meeting of the Community Council, or of any Committee or other body constituted by the Council, unless leave of absence has been granted or other reason accepted by the Community Council; or
- (c) upon the receipt by the Secretary or Chair of the Community Council of a written notice of resignation from a Member

7. TERM OF OFFICE

- 7.1 Elected members of the Community Council shall serve for a term of office being a minimum of two years and a maximum of three years, and shall be eligible for re-election. Doc 3 Community Council Constitution (example)-Term of Office **7.1 max of three years- presently we operate on a four-year term and have found this to be most suitable in achieving goals and aspirations for large projects, to reduce the term would mean less chance of achieving long term goals-our preference therefore is to remain on a four-year term.**
- 7.2 Any member of the Community Council elected at a by-election shall serve for a term of office up until the next full election for the Community Council and shall be eligible for re-election at that time.
- 7.3 A person seeking election to the Community Council must be aged 16 years or over and appear on the Electoral Roll for the 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 Community Council's area.

- 7.4 A person seeking election to the 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. GENERAL PROVISIONS

- 8.1 At the first public meeting of the Community Council following the initial election, which shall be chaired by the Returning Officer or their nominee (who shall normally be an ex officio member, if available), until a Chair has been elected, the Community Council shall elect from its eligible members a Chair, and such other office-bearers as the Community Council shall deem necessary. Thereafter such office-bearers, who shall be eligible for re-election, shall be elected or re-elected annually.
- 8.2 The Community Council may elect a Secretary and a Treasurer (which offices may be combined) who shall hold office and may be eligible for re-election in accordance with the provisions of paragraph 8.1 above. In the event of the Community Council being unable to elect a Secretary and/or Treasurer, the Secretary and Treasurer (but no other office-bearers) may be appointed from out-with 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 out-with the membership shall be entitled to speak only on matters relating to their function as office-bearers and shall have no voting rights.
- 8.3 The Chair shall:-
- (a) be responsible for ensuring that meetings of the Community Council are properly conducted in accordance with this Constitution and Standing Orders; and
 - (b) be responsible for the submission of a written Annual Report on the Community Council's activities for the previous year to the Annual General Meeting.
- 8.4 The Secretary, or in the absence of the Secretary, the Chair, shall:-

- (a) convene meetings of the Community Council and its committees;
- (b) undertake correspondence arising from the work of the Community Council;
- (c) be responsible for preparing and keeping the minutes of meetings, including a record of those members in attendance and those members who are absent, and making a true record of proceedings for distribution to members and others; and
- (d) undertake such other duties as required by the Community Council from time to time.

8.5 The Treasurer shall:-

- (a) correctly maintain the Community Council's financial records, which shall disclose, with reasonable accuracy at any time, the financial position of the Community Council;
- (b) take all reasonable steps to ensure that monies due are received and creditors paid;
- (c) present financial information to the Community Council when required; and
- (d) prepare annually an Abstract of Accounts for submission to the Annual General Meeting.

8.6 Any vacancy in office arising during the office-bearer's term of office may be filled at any meeting of the Community Council, provided that notice of the vacancy has been included in the agenda for the meeting.

8.7 As soon as practicable following such appointments, the Community Council shall lodge with the Director Corporate Governance at Scottish Borders Council, a return specifying the full names, designations and contact details of the Community Council office-bearers and Examiner(s) of their Accounts and subsequently advise them, in writing, of all changes within one month of such changes occurring.

8.8 All elected and co-opted Community Councillors must act in accordance with the rules set out in the Scheme and comply at all times with the Community Councillors Code of Conduct.

9. COMMITTEES AND SUB-COMMITTEES

- 9.1 The Community Council shall have the power to establish Committees and Sub-Committees and to stipulate their composition, powers, duties and duration.
- 9.2 Decisions of such Committees or Sub-Committees shall be taken by a majority vote of those present, with the Chair having both a deliberative and a casting vote.
- 9.3 At a meeting of a Committee or Sub-Committee, a quorum shall be at least one-half of the elected membership thereof.
- 9.4 Committees and Sub-Committees shall keep a record of their proceedings and decisions taken, which will be submitted to the Secretary for entry in the Community Council minutes.

10. MEETINGS

- 10.1 Meetings of the Community Council shall be convened at intervals of not more than 6 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 to attend, unless a meeting is to be held in private. Meetings of the Community Council can be held virtually, provided appropriate arrangements are put in place to allow virtual participation not only by all Community Councillors but also by the public. The Community Council shall comply with the principles of the Local Government (Access to Information) Act 1985, a summary of its main provisions having been provided to the Community Council, 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 advance sight of agenda papers and Minutes.
- 10.2 All relevant 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 electronically or in paper format to their normal residence or place of work if requested by them at least seven days before or, in cases of urgency, at least three clear days before, the due date of such meeting. At the same time as the agenda is issued to members, a copy shall be sent to the Director Corporate Governance at Scottish Borders Council (show email or postal address). At the same time, 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 the Community Council are held or on any local notice board, as well as online on a local website or social media page.

- 10.3 The ex officio Scottish Borders Council Councillor members shall comply with the National Code of Conduct for Local Authority Members. Community Council members shall be required to sign a declaration that they agree to abide at all times with 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. The Community Council shall annually submit in writing its agreement to abide by the Code of Conduct.
- 10.4 Members shall be required, in advance, to declare both financial and non-financial interests relating to matters which might be under discussion and after doing so shall take no part in their consideration and shall leave the meeting room for the duration of that item. Failure to observe this may lead to suspension from a meeting and repeated failure to observe may lead to suspension from participating in the work of the Community Council for a period of time. Such declaration of interest must be made at every meeting where such a matter is under consideration.
- 10.5 Only Community Council members with full voting rights may vote at Community Council Meetings, including Annual General Meetings, the only exception being votes on the proposed contents of and amendments to the Constitution, in which case all persons eligible to vote in local government elections and on the Electoral Roll for the Community Council area and in attendance at the meeting are entitled to vote.
- 10.6 The quorum for each Community Council meeting shall be one-third of the Community Council membership eligible to vote, subject to a minimum of three.
- 10.7 With the permission of the Chair, any member of the public in attendance at a meeting may speak or ask a question regarding any item on the agenda. Members of the public must respect the authority of the Chair and all others present.

11. SPECIAL MEETINGS AND EXTRAORDINARY PUBLIC MEETINGS

- 11.1 The Community Council shall be empowered to convene special meetings and extraordinary public meetings in accordance with the Scheme within the area of the Community Council for the purpose of considering matters of interest and importance, and for the purpose of agreeing or amending the Constitution.

11.2 The Community Council shall, upon receipt of a requisition signed by twelve electors, convene a special meeting, to be held within fourteen days of receipt by the Secretary of that requisition, to consider the business specified in the requisition and in the notice calling the meeting.

12. ANNUAL GENERAL MEETING

12.1 An Annual General Meeting shall be held not later than 60 days after the end of the Community Council's financial year.

12.2 The Agenda for the Annual General Meeting shall include the following items, namely:-

- (i) a report by the Chair on the Council's activities for the previous year;
- (ii) a report by the Secretary, as appropriate;
- (iii) the scrutinised/approved Annual Abstract of Accounts; and
- (iv) proposals for the amendment of the Council's Constitution, where appropriate;
- (v) election of Chair, Secretary & Treasurer.

13. MINUTES

The Community Council shall submit to the Director Corporate Governance, copies of the Minutes of its meetings. Minutes shall be circulated to Community Council members not later than with the issue of the agenda for the next meeting. Minutes of any meeting shall be made available not later than seven clear days prior to the next meeting of the Community Council for inspection by members of the public within the Community Council's area as requested.

14. HOLDING OF HERITABLE PROPERTY

14.1 The Community Council may lease or acquire any heritable property, the title to which shall be vested in the Chair, Secretary and Treasurer of the Community Council, and their respective successors, as trustees for and on behalf of the Community Council.

14.2 The 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 Director Resilient

Communities of Scottish Borders Council within twenty one days of it being agreed by the Community Council.

15. STANDING ORDERS

All Community Council business shall be conducted in accordance with the Standing Orders as may be prepared by the Community Council and approved in writing by Scottish Borders Council prior to adoption, and which shall not be amended without the prior written approval of the Scottish Borders Council.

16. FINANCIAL PROVISIONS

- 16.1 The Community Council may raise funds for schemes, projects and other purposes falling within its stated objects.
- 16.2 All monies received by the Community Council, whether by way of grant, gift or loan shall be applied to further its objects.
- 16.3 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.
- 16.4 The Community Council shall keep an accurate record of its receipts and payments and the Treasurer or other nominated office-bearer shall prepare annually an Abstract of Accounts (on the basis that the financial year runs from 1 April to 31 March of each year). The books and Abstract of each Community Council shall be scrutinised by an auditor/independent examiner (who shall not be a member of the Community Council), duly appointed from year to year for that purpose by the Community Council following approval by the Scottish Borders Council. A copy of the approved Abstract for each Community Council shall be submitted to the Director Resilient Communities at Scottish Borders Council (show email or postal address, could this be the same contact as 10.2?) following on from their approval at the Annual General Meeting. **Remove the wording auditor as this implies an accountant- community council cannot afford to employ one.**
- 16.5 The Community Council may be provided free of charge, so far as is reasonably and financially practicable, with accommodation within premises under the ownership and control of the Scottish Borders Council for the purpose of holding Community Council meetings or where such accommodation is not available contribute towards the hire charges incurred.

17. SUSPENSION OF A COMMUNITY COUNCILLOR

- 17.1 In the following circumstances the Community Council shall meet in private to consider a suitable course of action:
- (a) where a Community Councillor is consistently or flagrantly in breach of the Code of Conduct (including repeated non-declaration of interests);
 - (b) where a Community Councillor is suspected of theft or improper use of Community Council assets or any other offence which is deemed to affect their ability to participate in the activities of the Community Council; or
 - (c) where a Community Councillor may have brought the Community Council into disrepute by their actions or activities.
- 17.2 At such a meeting, the Community Councillor in question shall have the right to be accompanied by a supporter and to explain their actions, including any mitigating factors.
- 17.3 The Community Council may then consider the following options with regard to the Community Councillor:
- (a) that no action is necessary as the circumstances have been explained appropriately;
 - (b) to ask for an apology and an assurance that there will be no repetition of the matter under consideration;
 - (c) that appropriate training shall be given;
 - (d) suspension from Community Council meetings and activities for a period of time to be agreed by the majority of the Community Council voting members present;
 - (e) censure of behaviour and a written warning;
 - (f) in serious cases only, a request by the majority of the voting members present that the Community Councillor resign; or
 - (g) in serious cases only, to remove the Community Councillor with immediate effect only by a unanimous decision of those Community Council voting members present.

18. EQUALITIES

The Community Council is committed to treating all people equally and with respect, irrespective of their age, disability, gender reassignment, marriage

or civil partnership, pregnancy or maternity, race, religion or belief, sex or sexual orientation. A separate Equalities Statement shall be produced.

19. COMPLAINTS PROCEDURE

The Community Council shall produce a Complaints Procedure to deal with any complaints received about the Community Council or its members or its activities.

20. DISSOLUTION/DISESTABLISHMENT

- 20.1 A proposal to dissolve the Community Council shall require a Notice of Motion to that effect to be included on the agenda for a special meeting or an extraordinary public meeting, and shall require to be passed by a two-thirds majority of those present and voting.
- 20.2 In the event of the disestablishment or dissolution of the Community Council for any reason, such property and funds as are vested or under the control of the Community Council at the date of disestablishment or dissolution shall be transferred to and vested in the Scottish Borders Council unencumbered 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 may have determined to be for the benefit of all or part of the Community Council area.
- 20.3 In the event of the Community Council 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.

21. AMENDMENT OF CONSTITUTION

- 21.1 Any proposal to amend this Constitution must be delivered in writing to the Secretary of the Community Council at least twenty-eight days before the date of the meeting at which the proposal is first to be considered.
- 21.2 Subject to the provisions of paragraph 11 hereof any alteration to this Constitution will require approval of both:

- (a) a majority of Members of the Community Council voting at a Community Council Meeting; and
- (b) a two-thirds majority of residents of the Community Area entitled to vote, being present and voting at an Annual General Meeting of the Community Council or a Special Meeting or an Extraordinary General Meeting convened for considering the approval of such alteration.

21.3 Notice of any Special Meeting or Extraordinary Public Meeting at which a proposal to change this Constitution of the Community Council is to be considered shall be given at least fourteen days prior to the date of the Meeting and such notice shall detail the wording of the proposed alteration(s).

22. ADOPTION OF CONSTITUTION

This Constitution, after being agreed by the **XX** Community Council, was adopted at a Council Meeting held on (**day, date and location**). It is confirmed that this Constitution is not in conflict with the terms of the Scottish Borders Community Council Scheme.

..... CHAIR

..... SECRETARY

..... TREASURER

XX COMMUNITY COUNCIL

STANDING ORDERS

1. MEETINGS

- 1.1 Regular Meetings of **XX** Community Council shall be held in the months of(details to be entered – at least 3 meetings per annum, excluding the AGM). A special meeting of the Community Council may be called at any time by decision of the Community Council. Special meetings may be called at any time by the Secretary on the instruction of the Chair of the Community Council, or if requested to do so in writing by not less than one half of the total number of Community Council members, or upon receipt of a common written request (petition), signed by at least 12 persons resident within the Community Council area, to convene a special meeting for a particular matter or matters to be debated. A special meeting shall be held within 14 days of the request being received by the Secretary of the Community Council or as soon as practicable thereafter. Annual General Meetings are held annually within 60 days of the end of the Financial year.
- 1.2 Notice of regular and annual general meetings of **XX** Community Council, featuring the date, time and venue, shall be provided by the Secretary to each Community Council member at least 7 days before the date fixed to the meeting. Such notices shall also be available in Community Council area, both online and on noticeboards, as appropriate.

2. MINUTES

- 2.1 Minutes of the proceedings of the Community Council shall be drawn up as soon as practicable after the meeting and circulated in draft form to members of the Community Council; and shall be approved at the next meeting of the Community Council, following which they will be signed by the Chair of that meeting.
- 2.2 The approved and signed Minutes shall be retained for future reference.

3. QUORUM

- 3.1 A quorum shall be one third of the current eligible voting membership of the Community Council or at least three voting members, whichever is the greater.

4. MEETINGS

- 4.1 All Community Councillors, including ex-officio members, and members of the public in attendance, shall treat each other equally and fairly, and without distinction or discrimination.

- 4.2 Business of the Community Council will normally be considered in public. The Community Council may discuss items of business in private where it considers it appropriate to do so. The decision to meet in private will be agreed in advance and decided by a majority vote. Notice of such a meeting will be given to the public in the usual way. However the Notice will record that particular item(s) on the agenda will be held in private and the reason(s) for this must also be included on the agenda. All members, including ex-officio members, are entitled to be informed and to be in attendance for that part of the meeting. Brief minutes should be produced and presented to the next public meeting.
- 4.3 Meetings of the Community Council can be held virtually, provided appropriate arrangements are put in place to allow virtual participation not only by all Community Councillors but also by the public.

5. ORDER OF BUSINESS

- 5.1 At the first meeting of the Community Council following a full election, the meeting shall be chaired by the Returning Officer until that part of the meeting where the Chair shall be elected. The order of business for the meeting will be:
- (a) Recording members present and apologies received;
 - (b) Election of office bearers;
 - (c) Adoption of Constitution and Standing Orders;
 - (d) Appointment of Independent Examiners of Accounts;
 - (e) Agreement from all elected Community Councillors to comply with the Code of Conduct;
 - (f) Any other items; and
 - (g) Date of next meeting.
- 5.2 The order of business at every ordinary meeting of the Community Council shall include as follows:
- (a) Recording members present and apologies received;
 - (b) The Minutes of the last meeting of the Community Council shall be submitted for approval;
 - (c) Any other items
 - (d) Open Forum/Questions from the public; and
 - (e) Date of next meeting.
- 5.3 The order of business at every Annual General Meeting of the Community Council shall include as follows:
- (a) Recording of members present and apologies received;
 - (b) The Minutes of the last Annual General Meeting of the Community Council shall be submitted for adoption;
 - (c) Chair's Annual Report (and questions from the floor);
 - (d) Secretary's Annual Report (and questions from the floor);
 - (e) Treasurer's submission of Balance Sheet and Annual Accounts duly independently examined and certified correct (and questions from the floor);

- (f) Demit of current office bearers and election/re-election of office bearers;
- (g) Demit of current independent examiner of accounts and (re-)appointment; and
- (h) Date of next Annual General Meeting.(is this necessary a year in advance is too early to know what dates are suitable?)

5.4 It is not uncommon for the Community Council to arrange for an ordinary meeting of the Community Council to begin at the close of the Annual General Meeting, to enable any outstanding reporting of business matters to be heard. Community Council members and members of the public would also have the opportunity to bring matters to the attention of the Community Council, possibly for inclusion on a future agenda.

5.5 The order of business at every special meeting of the Community Council shall include as follows:

- (a) Recording members present and apologies received; and
- (b) Business for debate, as described in the calling notice for the special meeting.

6. ORDER OF DEBATE

6.1 The Chair shall decide all questions of order, relevancy and competency arising at meetings of the Community Council and their ruling shall be final and shall not be open to discussion. In particular, the Chair shall determine the order, relevancy and competency of all questions from the public in accordance with Section 4 above. The Chair, in determining the order, relevancy and competency of business and questions, shall have particular regard to the relevance of the issue to the community and to the need to ensure that the discussion and proceedings are conducted in such a manner that decisions are reached in a democratic manner. The Chair shall have the power, in the event of disorder arising at any meeting, to adjourn the meeting to a time and date they may then, or afterwards, fix.

6.2 Every motion or amendment must be moved and seconded by voting members of the Community Council in order to be competent. A motion or amendment, once made and seconded, may not be withdrawn without the consent of the mover and seconder. A Community Councillor may only move or second one Motion or Amendment per item on the agenda.

7. VOTING

7.1 Voting shall be taken by a show of hands of those Community Councillors present and eligible to vote on the relevant question, with the exception that secret ballots may be held in respect of the election of office bearers.

7.2 The Chair of the Community Council shall have a casting vote as well as a deliberative vote.

8. ALTERATION OF STANDING ORDERS

8.1 A proposal to alter these Standing Orders may be submitted to Scottish Borders Council at any time by the Community Council, provided that notice of a motion to that effect is given at the meeting of the Community Council, prior to the meeting at which the motion is discussed. Any proposed change must comply with the Scottish Borders Community Council Scheme and Scottish Borders Council shall have final discretion on any proposed change.

9. COMMITTEES AND SUB-COMMITTEES

9.1 The Community Council may establish and appoint such representatives to such Committees and Sub-Committees as it may from time to time decide, and shall determine their composition, terms of reference, duration, duties and powers.

10. SUSPENSION OF STANDING ORDERS

10.1 These Standing Orders shall not be suspended except at a meeting at which three quarters of the total number of Community Councillors are present, and then only if the mover states the object of their motion, and if two thirds of the Community Councillors in attendance consent to such suspension.

11. COMPLIANCE

11.1 The Community Council shall abide by its Constitution and to these Standing Orders for the proper conduct of its meetings.

COMPLAINTS PROCEDURE SCOTTISH BORDERS COMMUNITY COUNCILS

1. INTRODUCTION

This procedure is for making complaints about a Community Council or its members in the Scottish Borders, and can be used by members of the public, Community Councillors or SBC Elected Members.

2. WHAT IS A COMMUNITY COUNCIL COMPLAINT?

A Community Council complaint is an expression of dissatisfaction or concern relating to the actions of a Community Council or one of more of its members. This may be about:

- breaches of the Community Council Scheme or the Constitution of a Community Council;
- treatment by, or attitude of, a Community Council when dealing with a Community Council issue;
- financial irregularities or fraud;
- breaches in confidentiality;
- misuse of social media, email or letters for the purpose of personal and/or financial gain;
- bringing the Community Council into disrepute.

3. WHO CAN COMPLAIN?

Anyone who is affected by a Community Council can make a complaint. Anonymous complaints will not be accepted.

4. WHAT CAN A COMPLAINT BE ABOUT?

4.1 A complaint can be about things such as:

- treatment by, or attitude of, a Community Councillors when dealing with a Community Council issue;
- financial irregularities or fraud;
- breaches in confidentiality;
- misuses of social media, emails or letters for the purpose of personal and/or financial gain; or
- bringing the Community Council into disrepute.

4.2 A complaint cannot be about such things as:

- a decision of Scottish Borders Council;
- complaints regarding Scottish Borders Council services or officers (the complaints procedure of Scottish Borders Council should be used);
- a request for compensation on a decision the Community Council has made.

5. HOW TO MAKE A COMPLAINT

5.1 You can complain about the Community Council in writing or via email to the Chair or Secretary of the Community Council, not on social media, and can't be anonymous . If the complaint relates to the Chair then contact the Secretary, and vice versa. If the complaint relates to both these office bearers, then contact another Community Councillor.

5.2 When complaining, you need to provide the following information:

- a full name, address and email address (if applicable);
- as much detail about the complaint as possible;
- how you wish to see the issue resolved.

5.3 You must make your complaint within 6 months of the incident you want to complain about. It is expected that most complaints will be submitted immediately or within two or three months from the date of the incident. In exceptional circumstances, your complaint may be accepted beyond the 6 month time limit, but you will need to explain why the time limit should not apply in this situation.

5.4 The complaint procedure provides two opportunities to resolve complaints:

Stage 1 – frontline resolution by the Community Council;
 Stage 2 – investigation by another Community Council.

6. STAGE 1 – FRONTLINE RESOLUTION

6.1 Community Councils aim to resolve complaints quickly, either by an explanation, or where appropriate, an apology if something has clearly gone wrong. In such circumstances, steps will be taken to prevent such a problem reoccurring.

6.2 If the subject of a complaint is an individual or individuals, then any meeting of the Community Council where this is being considered will be held in private and minutes will be taken in accordance with Standing Orders.

Process

- (a) The complaint should be made in writing to the Chair or Secretary of the Community Council, or other Community Councillor where appropriate.
- (b) The complaint will be dealt with by the Chair or another appropriate office bearer or another Community Councillor (if the complaint is about the Chair).
- (c) The Chair will determine whether to uphold or not uphold the complaint, and send a response to the complainant within 10 working days, with an explanation of why the complaint is not being upheld.
- (d) Where the Chair determines that the complaint is not upheld, the matter will be noted and no further action will be taken other than providing a response to the complainant.
- (e) Where the Chair determines that the complaint is upheld, appropriate action will be taken to address and resolve the complaint. This could be an explanation of the circumstances or, where appropriate, an apology or referral to Stage 2.
- (f) If the complaint is more complex and requires a more detailed investigation, an extension of time should be sought or it may be escalated directly to Stage 2 of the complaint process. If this is the case, the complainant will be notified within 10 working days.
- (g) If the complainant is unhappy with the frontline resolution response, they can ask for their complaint to be considered at Stage 2 by contacting the Community Council.

7. STAGE 2 – INVESTIGATION BY ANOTHER COMMUNITY COUNCIL

7.1 Stage 2 deals with two types of complaint:

- those that have not been resolved at frontline resolution; and
- those that are complex and require a detailed investigation from the outset.

- 7.2 Stage 2 investigations will be referred to another Community Council in the same locality. That Community Council will appoint a Panel of at least three of their Community Council members, including a Chair, to make further investigations. **-this we do not support, we feel that dealing with a neighbouring community council is something that should be dealt with by paid SBC officers, not fellow community councillors, we believe this can cause alienation, between neighbouring community councils. Community councillors have sufficient pressure already upon them in carrying out their volunteering work for the communities- we do not support this investigation process. We welcome the policy and procedure for complaints, however only if SBC officers are willing to undertake the investigation process.**

Process

- (a) The Panel Chair will acknowledge receipt of the complaint within 10 working days.
- (b) On receipt of all paperwork in relation to the complaint, the Panel will determine whether further interviews are required or if a decision can be made using the information before them.
- (c) If further information is required, the Panel will arrange to meet with the complainant to discuss their concerns and to review any evidence provided. Questions at this time shall be for clarification purposes and notes may be taken by the Panel Members.
- (d) If further information is required where the subject of the complaint relates to a Community Council's actions or decisions, the Panel will meet with the relevant officer bearers/members of the first Community Council to discuss the complaint and to give them the opportunity to put forward their position and to answer any questions.
- (e) Where the subject of the complaint relates to the behaviour of a Community Councillor, the Panel will meet with the individual concerned to explain the nature of the complaint and to seek their position in relation to the complaint.

Outcome

- 7.3 The Panel will provide a full written response to the complainant detailing the final outcome of the complaint as soon as possible and within 30 days, unless the complainant has been advised that their complaint will take longer to resolve.

Decisions of the Panel

7.4 The Panel can make the following decisions:

- (a) Where the complaint is in relation to a Community Council:
- guidance given in relation to the issue;
 - mentoring offered, where appropriate;
 - training suggested, where appropriate;
 - censure of behaviour and a written warning to behave in accordance with the Code of Conduct for Community Councillors and/or the Scottish Borders Community Councils Scheme
- (b) Where the complaint is in relation to a Community Council's behaviour or actions:
- training suggested, where appropriate;
 - suspension from Community Council meetings and activities for a period of time to be agreed by the majority of the Panel;
 - censure of behaviour and a written warning to behave in accordance with the Code of Conduct for Community Councillors and/or the Scottish Borders Community Councils Scheme
 - in serious cases only, only by unanimous decision of the Panel, to request the Community Councillor to resign from the Community Council or to remove the Community Councillor with immediate effect.

7.5 The decision by the Panel will be the final decision in respect of the complaint and there is no further appeal process. Neither another Community Council nor an Elected Member or officer of Scottish Borders Council can undertake a further review of the complaint. Not sure about not having the right to appeal the final decision of the Panel, especially in the circumstances that the complaint has gone straight to the panel to be dealt with.

This page is intentionally left blank

XX Community Council Equalities Statement

Equalities Statement who signs this? when and how often? Should it be included at 5.1 in Standing Orders?

XX Community Council is committed to implementing and promoting equal opportunity for all and in all of its activities whether by way of membership, volunteering or participation. Our Community Council is committed to:

- the prevention of unlawful and unfair discrimination, harassment or victimisation on the grounds of age, race, sex, disability, sexual orientation, religion or belief, gender reassignment/ trans/ transgender identity (gender reassignment mentioned, depending on where one looks there are countless genders, if you generalise this statement it will not require updating in the future or upset anyone?), marriage or civil partnership, or pregnancy or maternity;
- advancing equality of opportunity and seeking to improve the diversity and make up of its members; We would suggest that this should be 'in line with local demographics'
- generally raising local awareness of equality and diversity; change to 'raise awareness of equality and diversity issues'

disadvantages suffered by people due to their **protected characteristics** Equalities Statement, uses terms neither myself or the Chair understand - 'protected characteristics' and 'protected groups'. As far as we are concerned every person is treated with the respect they are entitled to, if some people have special needs then these will be acted upon in full. what does this mean (definition required? Will be removed or minimised in order to create an environment in which individual differences and the contributions of all members refers to 'staff' – should be individuals/people?

- are recognised and valued;
- taking steps to meet the needs of people from **protected groups** what are protected groups – definition required? where these are different from the needs of other people;
- taking a zero tolerance approach to intimidation, bullying, victimisation or harassment; and
- promoting dignity and respect for all.

Signed: (by an office
bearer)

Dated:

XX Community Council Privacy Notice

Privacy Notice where do we use this. I can't find it referred to elsewhere.

1. **Who we are:** XX Community Council
2. **How your personal information helps us to fulfil our General Purpose:** By providing us with your contact details, you can help us "to ascertain, co-ordinate and express to the local authorities 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 in accordance with the Local Government (Scotland) Act 1973."
3. **How we will use your information?** We will use your information to enable us to perform our public functions as detailed at point 2 above. We will use your information to contact you in connection with our public functions and for **[inset any further purpose that the information will be used here]**

We may also analyse your information internally to help us improve our engagement and representation of the whole community. The information you have provided will be retained for **[inset retention period here]**.

4. **Who we may share your information with**
EITHER
We will not share your personal information with any third parties unless we secure your full permission to do so in the first instance.
OR
We may share your personal information with **[inset here any third party that you may share information with, if you have a lawful reason to share with them]** because **[inset here the legitimate reason that requires you to share that information]**

5. **Your rights under data protection law:**
 - Access to your information** – you have the right to request a copy of the personal information that we hold for you at any time.
 - Correcting your information** – we want to make sure that your personal information is accurate, complete and up to date. Therefore you may ask us to correct any personal information about you.
 - Deletion of your information** – you have the right to ask us to delete personal information about you (at any time) were:
 - we no longer need to hold the information for the purposes for which it was originally obtained;
 - you have an objection to our use of your personal information e.g. you have the right at any time to tell us to stop using your

personal information for promotional purposes of the Community Council;

- we are using that information with your consent and you have withdrawn your consent – see *Withdrawing consent to using your information* below.
- our use of your personal information is contrary to statutory role and/or General Purpose.

- 6. Withdrawing consent to use your information** – where we use your personal information with your consent you may withdraw that consent at any time and we will stop using your personal information for the purpose(s) for which consent was given. Please contact us as stated in section 9 below if you wish to exercise any of these rights.
- 7. Restricting how we may use your information** – you may ask us to restrict how we use your personal information e.g. where we no longer have a basis for using your personal information but you don't want us to delete the data. Where a restriction is applied, we may only use the relevant personal information with your consent.
- 8. Information you have given us about other people** – if you have provided anyone else's details as part of your correspondence, please make sure that you have told them that you have given their information to **XX** Community Council and provide them with this Privacy Statement for Guidance.

We will only use their information to contact them if it becomes necessary as part of your enquiry or request, or in the event of an emergency.

- 9. Complaints** – we aim to resolve any complaints about how we handle personal information as quickly as possible. If your complaint is about how we have handled your personal information, you can contact the Community Council's Secretary [***insert contact details for the CC Secretary here***].

NOTE: you also have the right to lodge a complaint about data protection matters with the Information Commissioner's Office, which can be contacted by post at:

Information Commissioner's Office,
Wycliffe House,
Water Lane,
Wilmslow,
Cheshire,
SK9 5AF.

You can also contact the ICO by phone on 0303 123 1113 or visit their website for more information at- <https://ico.org.uk/concerns>

Data protection briefing document - Community Councils

The legislation:

The General Data Protection Regulation (GDPR) is a, **EU law** that replaces the Data Protection Act 1998 (the 1998 Act). It is part of the wider package of reform to the data protection landscape that includes the Data Protection Act 2018 (the DPA 2018). The GDPR sets out requirements for how organisations, must handle personal data. Scottish Borders Council register Community Councils on a yearly basis with the [ICO](#) on your behalf. As of 31 December 2020, legislation is changing once again, the 'UK GDPR' will sit alongside an amended version of the DPA 2018. The key principles, rights and obligations will remain the same.

It is critical when you work with personal data that you understand the new rules and rights being introduced and are aware of how these may impact the work you do each day.

The principles:

There are 6 data protection principles that must be adhered to when dealing with personal data. These state that personal data shall be:

1. Processed lawfully, fairly and in a transparent manner. You must have a lawful basis for processing the data and you must inform individuals what you will do with their personal data.
2. Collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes. You are not free to use personal data for a purpose different from the one communicated to the individual in a privacy notice. You must have a good reason(s) for collecting, using and keeping individuals personal data.
3. Adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed. You should only collect the information needed for the purpose.
4. Accurate and, where necessary, kept up to date. Every reasonable step should be taken to ensure that personal data, where inaccurate, is erased or rectified without delay. You must ensure that personal data is regularly reviewed and inaccurate data is rectified, where appropriate.
5. Kept in a form which permits the identification of individuals for no longer than necessary. You should have a time limit in place for the retention of all data, and ensure that it is applied.
6. Processed in a manner that ensures appropriate security of personal data. You must ensure that personal data is protected from unauthorised access, unauthorised or unlawful processing, accidental loss, destruction or damage using physical and technical measures. It is good practice to carry out regular audits of information held and shared.

Data protection briefing document - Community Councils

Newsletter mailing lists:

1. Always use blind copy (Bc...) when emailing personal email addresses unless you have consent of all the individuals.
2. Carry out regular checks to ensure everyone on the list wants to receive the newsletter. If they do not, their personal data should be destroyed in a secure manner.
3. If publishing the newsletter on the internet you should ensure that any personal information i.e. names, addresses, telephone numbers, signatures and e-mail addresses should not be published unless either Community Councillors or Committee Members and representatives from other organisations have consented to the information being published. It is good practice to hold a list of individuals that have provided consent.

Minutes of Community Council meetings:

Members of the public are generally aware who their Community Councillors are and members of the Community Council, SBC Council Officers and representatives from other organisations e.g. Police may expect their names to be in the public domain. It is good practice that the Chair advises the meeting before starting that the minutes may be published with names and should anyone have concerns these can be considered.

If there is any reference to members of the public during such meetings it is advisable that their names should not be in the public domain i.e. neighbour disputes, criminal offences etc. If possible, it should be highlighted that should a member of the public who is attending a meeting makes reference to another individual relating to perhaps one of the above scenarios then it is advisable that they should be dissuaded from doing so. If there is reference to a planning application then it is considered reasonable that the address for the planning application can be disclosed as these are already published by the Council.

Requests for personal data:

If you should receive a request for personal data of individuals other than those which are already in the public domain you should not disclose this information without their consent or ensuring a mandate is in place. Be careful when a request involves children and young people's personal data.

The person requesting the information may not be who they state they are and you should therefore take a note of their name and telephone number and advise that you will pass the message on. If the person whose details they are requesting wishes to contact them then they will do so.

Community Council Documentation Retention Schedule CC document retention where is this referred to in Training handbook or Scheme?

Records Type	Trigger	Retention period	Fate
Decision Making			
Community Council Minutes/Agendas	Current	5 years I assume the instruction in the attached to 'Destroy' Minutes after 5 years is to do with GDPR. However, in our case, the Minutes archive, which goes back to 2008, includes a lot of the local history which we are loath to obliterate. Might it be acceptable to keep, say, hard copies in a locked filing cabinet somewhere?	Destroy Doc 9 – Retention Policy There was some disquiet over the necessity to destroy documents e.g. Minutes after a fixed period of time. The use of historical minutes has been useful to researchers and this could not happen if no records were retained. Would SBC hold records for longer and pass on for heritage storage? What would be the consequences should CCs hold on to data for longer than the stated periods?
Advice			
Advice to Public	Date file closed	1 year	Destroy
Advice to Community Council	Date file closed	1 year	Destroy
Enquiries and Complaints			
Comments & enquiries	Last action on comments	1 year	Destroy
Complaints	Last action on complaint	1 year 3 years	Destroy
Communication Support			
Publications - minor publications	Date published	3 years	Sample for archival value One copy only
Community Council Elections	Information only held by SBC where duties of Returning Officer are undertaken		

Records documenting activities undertaken preparing for a community council election	Date of election	1 year	Destroy
Completed nomination forms	Date of election	1 year	Destroy
Formal record of election results	Date of election	Until superseded	Destroy
Finance			
Accounts and accompanying information	Financial year end	6 years	Destroy
Data Protection Act			
Registration/renewal information	Financial year end	3 years	Destroy

**• SCOTTISH BORDERS COMMUNITY COUNCILS
FINANCIAL MANAGEMENT BEST PRACTICE GUIDANCE**

One member also wondered whether there was another document to deal with procurement of goods and services by a community council using public money.

1. Introduction

It is important that clear systems are put in place for the recording of all financial transactions. The purpose of this note is to provide basic guidance along with examples of practical action, tips and advice which will assist Community Councils to develop good practice in financial management.

2. Roles and Responsibilities

All Community Council members have a responsibility to ensure the prudent use of Community Council funds. Any doubts about the use of Community Council funds should be brought to the attention of the whole membership. If doubts still remain, advice should be sought from the Community & Partnerships team at Scottish Borders Council.

The Treasurer has primary responsibility for all matters relating to finance. The Treasurer's duties include:

- maintaining accurate systems for recording income and expenditure;
- preparation of regular statements to the Community Council on the balance of funds and income/expenditure;
- preparing annual accounts for audit and ensuring that expenditure accords with the purposes of a Community Council.

There are a number of references on the first page to auditing and the auditor. These comments are incorrect as community councils are not subject to an audit but an accounts examination. An audit has a specific legal meaning, being a more detailed process and the use of this terminology is misleading.

'The treasurer has primary responsibility for all matters relating to finance'. Does that mean they are solely responsible (legally) for any errors / issues that crop up? Or as we agree to accounts as a whole group, would any legal burden fall on the whole of KCC? Just a thought, obviously we'd hope this would never be an issue.

3. Basic Principles of Financial Management

No two Community Councils operate in the exactly the same way. In addition to this, while some are experienced at raising additional funds to finance particular projects, others carry out all their functions using the administrative grant received from Scottish Borders Council. For this reason, the following is not intended as a comprehensive set of guidelines but rather a few basic principles:

- all financial transactions should require the authorisation or approval of the Community Council;
- all transactions should be recorded in writing ensuring that a complete record is maintained;
- there should be written evidence to back up every transaction entered in the records;
- any cheques should require at least two signatures.

4. Annual Accounts

Community Councils are required to produce a set of annual audited accounts for approval at the AGM. These should consist of a Balance Sheet and an Income and Expenditure Account. Audited accounts are accounts which have been reviewed by an appropriate person and a statement produced. Among the other things an auditor will look for are the following:

- that funds have been spent in pursuit of the aims of the Community Council;
 - that all transactions recorded are verified by vouchers received (e.g. invoices, receipts);
 - that book entries correspond with bank statement information;
- that overall systems of financial control are satisfactory. **preference would be to change the wording from Audited to examined, audited implies an accountant has examined the accounts.**
-

5. Banking Information

All cheques or online payments should require more than one signature/authoriser, with the minimum required being two. A cheque signatory should not sign a cheque which is payable to them. [It is suggested that a cheque signatory should not sign a cheque which is payable to them. This could cause practical problems in obtaining signatures. Surely the second signature is an adequate safeguard.](#) All of the details of the cheque should be completed before it is signed.

All bank vouchers must be retained. This includes statements, cheque book stubs, and pay-in counterfoils.

How is a record kept of which two people authorised an online payment? Is it?

6. Petty Cash

Some Community Councils may never hold any petty cash. However, where a petty cash system does operate, steps should be taken to ensure that the level of cash held is kept to a minimum. In such cases, a petty cash book should be kept detailing all transactions. On a monthly basis the cash balance should be reconciled with the records in the petty cash book.

Petty cash is for use in making relatively minor cash payments. It should not be used where it would be reasonable to make payments by cheque or

online bank transfer. Consideration should be given for setting upper limits for petty cash payments.

7. Expenses/Honoraria Payments

Community Councils may reimburse office bearers, other members and employees for any reasonable expenses incurred in the performance of their duties. The disbursement of honoraria payments to members of a Community Council is not authorised in the Scheme for Community Councils i.e. honoraria payments to secretaries and treasurers may only be made where the person fulfilling that role is not an elected member of the Community Council. While the dedicated efforts of all Community Council members is acknowledged and appreciated, given the fact that public funds are ever more scarce and coming under ever greater scrutiny, it cannot be appropriate for these kind of payments to be made from the SBC annual administrative grant. [This rule that members of the community council cannot receive honoraria would decimate the operation of our community council. Both our secretary and minute secretary receive honoraria which are a small recompense for the many hours of work they put in. To adhere to this rule either they would have to be removed as members of the community council or elsewe would have to find other non-members to take on these roles. Past experience would suggest that this would be very difficult and I am concerned that this could lead to the complete collapse of our CC.](#)

Reimbursement of travel expenses can be made at the discretion of the Community Council for persons on official Community Council business. Claimants should submit a detailed record of dates, times, destination, reasons for travel and mode of transport. Reimbursement should normally only be awarded if accompanied by an appropriate receipt.

Think it would be hard for someone to provide a fuel receipt to cover any transport, but this sentence is maybe vague enough. Mileage claim form seems appropriate, maybe signed off by 2 members?

If the Community Council requires telephone calls to be made, reimbursement of expenses can be made at the discretion of the Community Council. The person making the claim should submit the itemised telephone statement highlighting the calls claimed and reimbursement can then be authorised by the Community Council.

8. Good Practice Checklist

The list below is intended as a useful guide for Treasurers and others in evaluating the financial practices of their Community Council. The checklist is not definitive but is merely an outline of some self-assessment steps

which could be taken. . Is an annual budget drawn up and approved by the Community Council? In my opinion this is impractical and unnecessary.

Accounts Requirements

- Are proper records kept of all transactions?
- Are accounts formally approved at the Annual General Meeting?

Budgeting

- Is an annual budget drawn up and approved by the Community Council?

Receipt of Funds

- Are all incoming cheques, online payments and cash recorded immediately?
- With online payments you often do not know of receipt until the next bank statement is received so it is impossible to record them "immediately".
-
- Are all funds paid directly into the Community Council's bank account?

Fund Raising Events/Grants

- Are records kept of each fund-raising event?
- Are records kept of each grant application (successful or unsuccessful)?

Bank Accounts

- Are all funds belonging to the Community Council held separately from that of any individual or other organisation?
- Are regular checks made between bank statements and the Treasurer's own records of income and expenditure?

Controls over Expenditure

- Is all expenditure authorised by the membership of the Community Council?
- Is supporting documentation held for all expenditure e.g. invoices?
- Are cheque books held in a secure place with access only by signatories?

It is implied that all expenditure should be authorised by the membership of the Community Council but it is not clear what this means. Does this require a vote of the members at meetings. If this means the whole membership then this is totally impractical. In order to ensure prompt payment of bills it is essential that the treasurer should have some discretion to make payment without running them past the whole membership. Remember there is the safeguard that payments need 2 signatures.

Payment by Cheque

- Are all cheques signed by at least two people?
- Is every effort made to minimise cash payments?
- Is all cheque expenditure recorded and noted with the relevant cheque number?
- Are all cheque stubs completed at the time of payment?
- Are all cheques signed only with documentary evidence of the nature of the payment?

Cash Payments

- Do all cash payments have supporting documentation?
- Are amounts of cash claims entered in a petty cash book?

Online Banking

- Do at least two officers have access to any Community Council online banking account?
- Is all online expenditure recorded and noted with the relevant online transaction reference?
- Does all online expenditure have authorisation from the Community Council membership in advance of transactions?

Does all online expenditure have authorisation from the Community Council membership in advance of transactions? See point 6 above. This is totally impractical and removes the benefit of online banking. Treasurers are appointed by the membership and need to have delegated authority to be able to carry out their role. Do they know how difficult it is to find office bearers? Tying one hand behind their back will only make this harder!

This page is intentionally left blank

SCOTTISH BORDERS COUNCIL

FOLLOWING THE PUBLIC POUND

CODE OF PRACTICE FOR COMMUNITY COUNCILS

1. NATIONAL CODE OF GUIDANCE

- 1.1 This Scottish Borders Council Code of Practice for Community Councils follows the guidelines and principles of "Following the Public Pound", issued in 1996 by the Accounts Commission for Scotland and CoSLA.
- 1.2 The Code aims to help Community Councils to ensure that they are meeting Best Value criteria in their use of public money and that any group or organisation receiving funding from a Community Council provides sufficient information to enable Best Value judgements to be made.
- 1.3 The main, and usually only, source of public funding for Community Councils is from an annual core funding allocation from Scottish Borders Council. This code enables Scottish Borders Council to ensure that this funding meets Best Value criteria.

2. SCOPE OF THE CODE

- 2.1 The Code is applied to all grants, donations, subscriptions and payments to any groups or organisations made by a Community Council from public funds where the amount of Community Council funding is £50 or more. **due to the recent review of the community council admin fund it was proposed to remove this code- we would prefer that this was to remain, as we have donated/supported local people/organisations in start-up's . removing this code would mean we can no longer support small schemes.**
- 2.2 Scottish Borders Council has in place a Policy and Guidelines covering grants and donations to voluntary organisations, primarily under the Community Grants Scheme, which details the checks to be carried out before any grant can be made. This Policy and Guidelines inform the basic administrative requirements for any grants made by Community Councils thus ensuring that a Community Council has sufficient information to make Best Value judgements under this Code.

3. USE OF PUBLIC FUNDS BY COMMUNITY COUNCILS FOR GRANTS/ DONATIONS TO THIRD PARTIES

- 3.1 Grants made by Community Councils from Public Funds may only be made to formally constituted groups and the need for funding must be established through an examination of the group's accounts.
- 3.2 Any group receiving a grant from a Community Council's public funds is required to complete an annual monitoring form (Appendix A) which will be appended to the Community Council annual accounts and submitted to Scottish Borders Council.

4. MONITORING

- 4.1 The Budget Holder for the Community Council Core Budget is the Communities & Partnerships Manager and he/she is responsible for ensuring that the Code is followed primarily through the check provided by the Community Council's accounts.
- 4.2 The Strategic Community Engagement Officer advises Community Councils about processes, procedures and requirements and reminds them on an on-going basis of the need to ensure sufficient information gathering to ensure that the Best Value argument can be made for any grant/donation.

5. DISAGREEMENTS

- 5.1 Should any disagreements arise as to the propriety of a grant/donation or as to any part of this Code, the Communities & Partnerships Manager will consult as appropriate within the Council before making a judgement. If a Community Council remains dissatisfied, the matter will be referred to the Chief Executive.

SCOTTISH BORDERS COUNCIL

**COMMUNITY COUNCIL FUNDED
GRANT EVALUATION FORM**

Group name:

Please return this form when your project/period of support is complete.

Section 1: Spending your grant

Please give details below of the items of activities funded by this grant.

Item/activity	Cost (corresponding evidence of spending attached)
Total amount spent by your group	£

Section 2: The benefits of your award

Please give at least three examples of the ways in which the grant has been of benefit to your community and/or to the work of your group.

-
-
-

How many people benefited from the grant? _____

Section 3: The signed declaration

I confirm that the details contained in this form are correct and that we will keep all financial records and accounts, including receipts for items purchased with the award, for at least two years from payment of the grant. We understand that this does not release us from our statutory obligations to keep records for longer periods. We are aware that we may be asked to forward receipts for inspection or that we may be visited to inspect our records.

Name: _____

Position in organisation: _____

Contact telephone number: _____

Signature: _____ Date: _____

If you require any advice or assistance in completing this form please contact the Communities & Partnerships Team on 0300 100 1800 or at communitygrants@scotborders.gov.uk

BRIEFING NOTE: COMMUNITY COUNCILS AND THE PLANNING SYSTEM

“The primary responsibility for the operation of the planning system lies with strategic development planning authorities, and local and national park authorities. However, all those involved with the system have a responsibility to engage and work together constructively and proportionately to achieve quality places for Scotland. This includes the Scottish Government and its agencies, public bodies, statutory consultees, elected members, communities, the general public, developers, applicants, agents, interest groups and representative organisations.”
Scottish Planning Policy 2014

Introduction

The aim of this guidance note is to provide basic information to Community Councils on planning matters, and to signpost further information.

The Scottish Government is responsible for developing planning policy in Scotland but the implementation of that policy is primarily a local function. The responsibility for planning matters in the Scottish Borders, including the processing and determination of planning and related applications, rests with Scottish Borders Council

Within SBC, planning is dealt with by the Planning and Related Services Department.

Planning law can be complex and the Government has issued Planning Advice Notes (PANs) and circular guidance to supplement the legal framework. These must be taken into consideration by Local Authorities when developing systems, local policies and taking decisions.



Community Councils have a formal, statutory role in the planning system and must be consulted on a variety of issues. Advice on Community Councils and Planning is given in [PAN 47](#). It is national planning policy to encourage community involvement in the planning system and there is current advice on [Community Engagement](#). In addition, Community Councillors should familiarise themselves with the [SBC E-planning system](#), which is now the primary means of accessing information on planning applications.

Community Councils play a key part in both Development Planning and Development Management. SBC welcomes their role in expressing local opinion whether on wider policy matters or on individual planning applications. The views of Community Councils, where properly expressed and relevant to planning, are important material considerations in the determination of any application.

Development Planning

Development Plans provide a vision of how places should develop, including those areas which should receive special protection.

SBC is one of 6 planning authorities in South East Scotland (Scottish Borders, East Lothian, Midlothian, Edinburgh, West Lothian and Fife) which has been involved in the production of a co-ordinated Strategic Development Plan for the wider region ([SESPlan](#)).

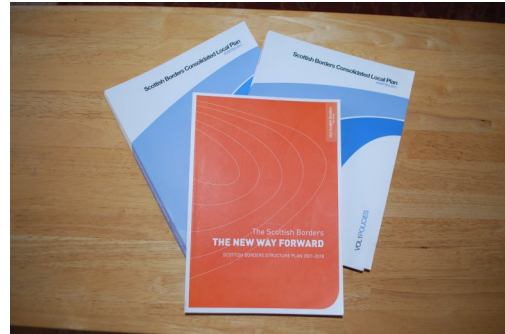
The Local Development Plan adds detail to national and regional policy and is the core document against which planning applications are assessed. The Local Development Plan goes through an extensive consultation process in its development before being adopted by the full Council and it must also be approved by the Scottish Government. The current plan runs to 2025.

Community Councils are statutory consultees and are asked to put forward views and local knowledge at the consultative stages.

BRIEFING NOTE: COMMUNITY COUNCILS AND THE PLANNING SYSTEM

Details of the Development planning process can be found at [Planning policy](#).

Community Councillors should make themselves familiar with the process and should also ensure that they are aware particularly of those areas of the Local Development Plan which affect their communities.



In addition to the main Development Plans, from time to time, SBC issues topic-based (eg replacement windows) supplementary guidance, similar to the PAN system, in the form of Supplementary Planning Guidance (SPGs). Community Councils are consulted during the drafting process of these notes. As with PANs, SPGs are taken into account when planning applications are determined.



Planning Briefs. Detailed [Planning Briefs](#) are usually developed for large-scale development sites or for sites where development will have a major impact. Community Councils in areas affected are consulted at the drafting stage.

Development Management

Development Management is the term used to describe the process by which decisions are made on planning applications. In SBC the development management process is handled by the Planning and Relates Services Division of the Regulatory Services Department. Much of the process is handled electronically and the public can comment on live applications and track their progress from the council's website.

What constitutes development is defined in law and includes building and engineering operations and changes to the use of land and/or buildings. This can include building walls and fences, erecting new buildings, alterations and conversions, attachments to buildings (eg satellite dishes), new roads or accesses, conversions, and demolition. Some minor proposals are classed as permitted development and therefore do not need planning permission.

The full Council determines planning applications which are of national importance or major applications which are a significant departure from the Local Development Plan. Decisions on all other planning applications are taken either by Councillors who are members of the [Planning and Building Standards \(PBS\) Committee](#) or, for the majority of applications, by planning officers in accordance with the [Scheme of Delegation](#) approved by the Council.

The PBS Committee is made up of nine Councillors, including a Chairman and a Vice-Chairman. The Committee normally meets monthly. Councillors of this Committee are required to make decisions on a quasi-judicial basis and on planning grounds, rather than in their capacity as ward Councillors.

2

A planning application is never processed and determined by a single individual whether an elected Councillor or a planning officer.

BRIEFING NOTE: COMMUNITY COUNCILS AND THE PLANNING SYSTEM

General Information on planning applications

Types of Application

There is a range of different types of application, including planning applications, listed building applications, applications for conservation area consent (where a proposal involves demolition of buildings in a conservation area) and applications for consent to display advertisements. Some development proposals may require a range of permissions.

An application may be submitted for:

- *Planning Permission*. The application must provide the full range of necessary information and seeks consent to carry out works (this is also used for a change of use application). The permission may be subject to 'conditions', setting out requirements, some of which may need to be resolved before work can start.
- *Planning Permission in Principle (PPP)*. This is an application process which can be used by a developer to establish whether the *principle* of their development is acceptable without having to provide detailed information at an early stage. Before an applicant can start work they must subsequently apply for Planning Permission or for -
- *Approval of Matters Specified in Conditions (AMC)*. This only ever follows the grant of PPP and seeks approval for the detailed matters not covered in the PPP but which have "reserved" for future consideration and approval, including as a result of any planning conditions.

Neighbour Notification and Publicity

It is the responsibility of SBC to notify neighbours within 20m of an application site. If there are no premises on a neighbouring property where the notification can be delivered, the Council is required to advertise the application in the local press. This is the case even if the owner of the land is known. Neighbours are given 21 days from the date on the notification to respond.

For certain applications, the Planning Authority must place advertisements in local papers and site notices are required to be placed at the application site. Again, the time scale for any representations is 21 days.

Time Periods for Decisions

Legislation requires that a decision should normally be taken on applications within a period of 2 months or for major applications 4 months. Where a decision is not taken within this period, the applicant may, if it is for a local development, request that the Council's Local Review Body considers the application or, if it is for a major or national application, appeal to the Scottish Government on the grounds that the application is deemed to have been refused.

The Decision.

Planning authorities are entitled to approve, approve with conditions, or refuse an application. Authorities must provide clear reasons for their decision including reasons for the imposition of any conditions. These details are contained in the Report of Handling. These reports are made available on Public Access once the decision notice has been issued.

Developers who have an application refused or wish to appeal against the imposition of any conditions may:

- for applications dealt with under delegated powers ask the decision to be reviewed by the Local Review Body
- for applications considered by the full Council or the Planning and Building Standards Committee appeal to the Scottish Government.

It is the Council's aim to issue decisions on the more straightforward applications within this 2 month period.

BRIEFING NOTE: COMMUNITY COUNCILS AND THE PLANNING SYSTEM

Local Review Body

For those applications that have been determined under the Council's Scheme of Delegation i.e. 'local applications' applicants can ask the Council to review the decision. A Local Review Body will then decide whether the decision taken was the correct one, or whether a different decision should be made.

The SBC [Local Review Body](#) (LRB) comprises the same Councillors as the PBS Committee. The Meetings are held in public and decisions are published on the council's website.

Legal Issues.

The grant of planning permission does not affect other legal rights that may also exist on land, or alter the requirement for other consents from other bodies such as the Building Standards Authority, Licensing Authority, Scottish Water, and Scottish Environment Protection Agency. Development proposals may also give rise to legal issues which will require to be addressed before a development might proceed, e.g. land ownership.



The granting of a planning permission does not convey a right on landowners or developers to proceed with a development in advance of obtaining all other necessary consents and clearances.

The role of Community Councils in the Development Management Process

There are 69 Community Councils in the Scottish Borders representing areas of widely differing character and interest from primarily urban settings to rural areas. Although all Community Councils conform to the principles of the SBC Community Council scheme they differ in size and organisation: there is no one pattern and this means that the way in which each Community Council consults local residents and deals with consultations will differ. It is, however, possible to lay down some general guidance on the role of Community Councils in Development Management which will apply to all Community Councils.

The purpose of consulting Community Councils on planning applications is to obtain views representative of the community as a whole. Community Councils may also be able to provide local information which is not otherwise available and to gather the views of the community on certain types of proposal.

PAN 47 makes recommendations as to how Community Councils should organise themselves in order to react in a timely manner to consultations. A single point of contact for planning matters can be useful as can a planning sub-committee which can take decisions on some categories of planning applications outwith the normal monthly cycle of meetings. The most critical point, however, is that Community Councils have an established procedure to ensure that all consultations are responded to promptly and correctly.

BRIEFING NOTE: COMMUNITY COUNCILS AND THE PLANNING SYSTEM

Each Community Council is given a point of contact within the Planning and Regulatory Services Division. This point of contact will be a Planning Officer with responsibilities in the Community Council area who will be able to give advice on the planning process to Community Councillors.

Pre-application Consultations for Major and National Planning Applications

Pre-application Consultation is a requirement for proposals that fall into the category of major or national development. It aims to promote early community engagement in developing proposals and so improve the quality of proposals. As part of this process, the applicant must consult with Community Council(s) within whose area the application site is located and must hold at least one public event. SBC has no direct role in this process other than to ensure that the proposed means of community consultation is sufficient to meet statutory requirements. All feedback should be provided directly to the developer. Once the planning application is submitted, the Community Councils involved may make representations as normal.

Planning Applications

SBC publishes a [weekly list of planning applications](#) on the Council's website. This can be accessed in "real time", but is set out Monday to Monday.

- *Community Councils can request that they are consulted on a particular application within 7 days of the publication of the [weekly list](#), but do not need to be formally consulted in order to comment on applications. It is usually quicker to respond directly on an application than to request and then await a formal consultation.*
- *Community Councils should have a system in place to ensure that their list is checked weekly.*

On certain types of application, SBC will initiate a consultation with Community Councils, e.g.: Developments with more significant impacts such as hot food shops, dance halls, scrap yards, mineral workings, applications involving Listed Buildings, applications which might affect conservation areas, and applications that are considered likely to be of wider public interest.

Response Times

- *If consulted on an application, SBC provides Community Councils with 28 days in which to respond.*

It is important that responses, even if the response is 'no comment', are received on time. (It is occasionally possible to agree an extension to the deadline with the relevant planning officer but this has to be agreed in advance.) As SBC has a duty to determine applications timeously, it cannot delay making its decisions to await late responses.

Advice on Responses

Whilst community councillors may have questions or concerns about a number of aspects of a development proposal, when formulating a response to an application, they should restrict their comments to the planning merits of the case. Legal disputes over land ownership, or matters that are more appropriately dealt with under other legislation are seldom material to the planning merits of the case and cannot normally be taken into account in the determination of the application, no matter how much the strength of feeling locally. These are for the applicant or developer to address separately outside the planning process.

Section 25 of the Town and Country Planning (Scotland) Act 1997 states that:

"Where in making any determination under the Planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise."

BRIEFING NOTE: COMMUNITY COUNCILS AND THE PLANNING SYSTEM

The first “port of call” when formulating a response to a planning application is therefore to check the provisions of the [Local Development Plan](#), so far as they affect the application site. This also includes the Council’s [Supplementary Planning Guidance](#) which are material planning considerations.

Some policies within the development plan will be quite specific providing only limited scope for flexibility or interpretation. However, many will be criteria-based in that they will give support to development where it meets certain requirements, e.g. where satisfactory access can be achieved, where the proposal would be consistent with the character of the settlement, or where the proposal does not have a significant adverse effect on the landscape or the amenity of adjoining properties. In such instances community councillors will require to use their judgement to assess whether they think the policy would be satisfied or breached. This may often require a balance of differing policy requirements.

The matters that can legitimately be taken into consideration in determining an application are wide ranging. They will usually include factors such as the siting and design of building works, the road safety implications of a proposal, and the impact of a proposed use or activity on the character and amenity of an area. It will not generally be appropriate to consider matters such as neighbour disputes, impact on property values, the perceived over-provision or loss of a particular facility and matters which are dealt with under other legislation, however how much of a concern this might be.

The following factors should be borne in mind when considering and formulating a response to an application:

- any member of the Community Council having a private interest in an application, either in the site, the proposal or through the applicant or an objector, should declare that interest and play no part in the Community Council's consideration of the application.
- Where a member of the Community Council wishes to make a separate representation as a private individual, he/she should make it clear that they are responding on that basis and not on behalf of the Community Council.
- Where there is not a consensus of opinion, the Community Council should indicate that this is the case. Indeed, it would be inappropriate to suggest that the community is of a single mind if this is not the case.
- Views should be expressed in clear and unambiguous terms. The precise wording of responses can be important at Committee or at a subsequent appeal.
- When opposing an application the grounds for doing so should be clearly stated and should be on relevant planning grounds.
- Where qualified support for an application is expressed, an indication could be given to whether or not it is considered that conditions should be imposed. Conditions cannot be attached indiscriminately: they must be relevant to planning, relevant to the development permitted, enforceable, precise and reasonable in all other respects.

When considering an application for approval of matters specified in conditions, (applications references will end with “AMC”), the planning authority is restricted to those matters and only those matters that have been reserved for further consideration and approval at the permission in principle stage (PPP). The planning authority may not consider other matters and, in particular, may not re-open debate about the principle of the development which will have been accepted through the granting of PPP. Community Councils should be mindful of these limitations when formulating their responses.

Prepared by Planning and Related Services, Scottish Borders Council, Council Headquarters, Newtown St Boswells, MELROSE TD6 0SA.

tel: 0300 100 1800 e-mail: prs@scotborders.gov.uk

This version: May 2018