

# **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 sub-division 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](mailto: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**

<b>Community Council Area</b>		<b>Number of Elected Members</b>	<b>Allocation of Seats on Community Council and Sub-Division of Areas as on Map where appropriate</b>
<b>Berwickshire</b>			
1	Abbey St. Bathans, Bonkyl and Preston	12	---
2	Ayton	12	---
3	Burnmouth	8	---
4	Chirnside	8	---
5	Cockburnspath and Cove	10	---
6	Coldingham	10	---
7	Coldstream	12	
8	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	
<b>Ettrick and Lauderdale</b>			
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	

<b>Roxburgh</b>			
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	
<b>Tweeddale</b>			
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.