

# **SWINTON & LADYKIRK COMMUNITY COUNCIL**

## **CONSTITUTION**

### **1.0. NAME**

1.1 The name of the Community Council shall be Swinton & Ladykirk Community Council (hereinafter referred to as “the Community Council”).

### **2.0 AREA**

2.1 The area of the Community Council shall be that part of the Scottish Borders, the boundaries of which are shown delineated on **the map in Appendix 1 to this document**.

### **3.0 PURPOSES/FUNCTIONS**

3.1 In addition to any other purpose 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) make known within the community such information as may be received from the Scottish Borders Council and other public authorities; and
- (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-political and shall represent all residents within its designated area.

3.3 The Community Council shall, in all its activities, projects & dealings with the communities it represents, adopt an open & inclusive approach with regard to ALL residents of those communities.

It shall rigorously ensure no prejudicial treatment, either positive or negative, of any single individual, or group of individuals, based upon age, gender, pregnancy, maternity, nationality, race, physical/mental state, colour, religious beliefs, political affiliations and/or sexual orientation.

### **4.0 COMPOSITION OF THE COMMUNITY COUNCIL**

4.1 The Community Council shall be composed of :

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- (a) a maximum nine members, elected in the manner prescribed in the Scheme and
- (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 considers would be of assistance to the Community Council in carrying out its functions. Such co-opted members shall not have voting rights, shall not be entitled to move motions or amendments, and shall not hold office, and may be of any age. Members co-opted for this purpose will serve for such time as may be determined 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) The Community Council may, where the elected membership does not comprise the maximum number of elected members specified in paragraph 4.1(a) above but is equal to, or exceeds, one-half of that number, or where casual vacancies arise during a term of office, co-opt persons who would be eligible for election to the Community Council as members in order to make up that number, subject to the number of members so co-opted not at any one time exceeding one quarter of the maximum number of elected members specified in paragraph 4.1(a) above. For the purposes of this sub-paragraph, any fraction arising shall be rounded down to the nearest whole number. 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 six 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

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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.

### **5.0 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) hereof 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 and address of the person proposed to be co-opted, together with that person's number on the current Electoral Register, and the names of the proposer and seconder who shall be elected members of the Community Council.

### **6.0 CASUAL VACANCIES**

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

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

### **7.0 TERM OF OFFICE**

7.1 Elected members of the Community Council shall serve for a term of **four year(s)**, and shall be eligible for re-election.

7.2 This term of office shall be held to be adjusted without the need to amend this Constitution in the event of the Scottish Borders Council exercising their right under the Scheme to set a common date in each year for Community Council elections.

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### **8.0 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 his nominee (who shall normally be an ex officio member, if available), until a Chairperson has been elected, the Community Council shall elect from its eligible members a Chairperson, to be known by such title as the Community Council decide, subject to approval of that title by the Scottish Borders Council, and such other office-bearers as the Community Council shall deem necessary. Thereafter such office-bearers, who shall be eligible for re-election, shall be elected or re-elected at the first Public Meeting following a Community Council election.
- 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 outwith the membership of the Community Council and may receive such remuneration as the Community Council may determine from the resources available to them, there being no extra funding available from the Scottish Borders Council for this purpose. Such appointees from outwith the membership shall be entitled to speak only on matters relating to their function as office-bearers and shall have no voting rights.
- 8.3 The Chair shall:
- (a) ensure meetings of the Community Council are properly conducted, in accordance with the Constitution and Standing Orders;
  - (b) prepare & submit a written Annual Report of the Community Council's activities during the previous year, at the Community Council's Annual General Meeting and thereafter, to the Scottish Borders Council.

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### **8.4 The Vice-Chair:**

The Vice-Chair has no specific duties, other than deputising for the Chair when (s)he is unable to be present.

### **8.5 The Secretary, or in his/her absence, the Chairperson pro-tem, shall:**

- (a) convene meetings of the Community Council and its committees;
- (b) undertake correspondence arising from the work of the Community Council;
- (c) prepare & file 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 other duties required by the Community Council from time to time.

### **8.6 The Treasurer shall:**

- (a) correctly maintain the Community Council's financial records, which shall detail, at all times, 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;
- (d) if nominated to do so, prepare annually an Abstract of Accounts for submission to the Annual General Meeting.

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

### **8.8 As soon as practicable following such appointments, the Community Council shall lodge with the Service Director of Strategy & Policy of the Scottish Borders Council, a return specifying the full names, designations and addresses of the Community Council office-bearers and Auditor(s)/Examiner(s) of their Accounts and subsequently advise him, in writing, of all changes thereof within one month of such changes occurring.**

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### **9.0 SUB-COMMITTEES**

- 9.1 The Community Council shall have the power to establish Sub-Committees and ad hoc Committees and to stipulate their composition, powers, duties and duration.
- 9.2 Decisions of Sub-Committees and ad hoc Committees shall be taken by a majority vote of those present, with the Chairman having both a deliberative and a casting vote.
- 9.3 At a meeting of a Sub-Committee or ad hoc Committee, a quorum shall be at least one-half of the elected membership thereof.
- 9.4 Sub-Committees or ad hoc 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.

### **10.0 MEETINGS**

- 10.1 Meetings of the Council shall be convened at intervals of not more than three months, with at least four meetings being held annually, one of which shall be the Annual General Meeting. All Community Council meetings shall be open to members of 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 Community Council members shall be informed of the venue, date and time of any meetings of the Community Council, Committees or Sub-Committees, by means of written agendas, specifying the business to be conducted and sent either to their normal residence or place of work 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 Service Director of Strategy and Policy of the Scottish Borders Council or his nominee as advised. At the same time, public notice

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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 and on local notice boards and/or appropriate public venues..

- 10.3 The Community Council members shall comply with the Scottish Borders Code of Conduct for Community Councillors, a copy of which shall be issued to each Community Council. Community Councillors shall be required, in advance, to declare pecuniary and non-pecuniary interests relating to matters which might be under discussion and, having done so, shall take no part in discussion/decisions on those matters. Failure to observe this may lead to suspension from a meeting. Repeated failure may lead to suspension from participating in the work of the Community Council for a period of time.
- 10.4 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 the Constitution and proposed amendments thereto, 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.
- 10.5 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.
- 10.6 With the permission of the Chairman, any member of the public in attendance may speak or ask a question regarding any item on the agenda.

### **11.0 SPECIAL MEETINGS AND EXTRAORDINARY PUBLIC MEETINGS**

- 11.1 The Community Council shall be empowered to convene special meetings and/or extraordinary public meetings as set out below, 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 **a minimum of** twenty electors, convene a special meeting, to be held within twenty-one days of receipt of that

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requisition by the Secretary or Chair, to consider the business specified in the requisition and in the notice calling the meeting.

- 11.3 The Community Council shall, upon receipt of a requisition signed by not less than **half of its** members, convene an extraordinary public 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.

### **12.0 ANNUAL GENERAL MEETING**

12.1 An Annual General Meeting shall be held within the sixty days following the end of the Community Council's financial year.

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

- (a) presentation by the Chairperson, of a report on the Community Council's activities during the previous year;
- (b) presentation, scrutiny & approval of Annual Abstract of Accounts;
- (c) proposals for the amendment of the Community Council's Constitution, where appropriate;
- (d) election of office bearers;
- (e) appointment of auditors;
- (f) agreement to abide by the Scottish Borders Council Code of Conduct for Community Councils.

### **13.0 MINUTES**

13.1 The Community Council shall submit to the Service Director of Strategy and Policy of the Scottish Borders Council or his nominee, copies of the draft Minutes of its meetings not later than twenty-one days after each meeting. Minutes shall be circulated to all members, not later than with the issue of the agenda for the next meeting. Minutes of any meeting shall be made available to members of the public within the Community Council's designated area (by means of public notice boards and the Community Council's website & Facebook page), at least seven clear days prior to the next meeting.



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### **14.0 HOLDING OF HERITABLE PROPERTY**

14.1 Any heritable property acquired by the Community Council 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 maintain an accurate record of any assets held, and where they are kept, indicating its wishes for the **disposal** of these assets in the event of the Community Council being disestablished or dissolved. A copy of the register, and any subsequent changes, shall be submitted to the Service Director of Strategy and Policy of Scottish Borders Council within twenty-one days of it being agreed by the Community Council.

### **15.0 STANDING ORDERS**

15.1 All Community Council business shall be conducted in accordance with such 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.

### **16.0 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 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 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

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Council shall be submitted to the Service Director of Strategy and Policy of the Scottish Borders Council within seven days of the Annual General Meeting.

### **17.0 DISSOLUTION/DISESTABLISHMENT**

17.1 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.

17.2 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 in the aforementioned asset register, may determine to be for the benefit of all or part of the Community Council area, said discretion including the power of sale. The members and office-bearers of the former Community Council shall remain liable following such transfer for their intromissions with the former Community Council's assets during their term of office.

### **18.0 AMENDMENT OF CONSTITUTION**

18.1 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.

18.2 Subject to the provisions of Paragraph 11 hereof, any alteration to this Constitution shall require the 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.

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18.3 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).

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### **19.0 ADOPTION OF CONSTITUTION**

19.1 This Constitution, after being agreed by the Swinton & Ladykirk Community Council, was adopted at the Council's Special Meeting held on 15 July 2019.

*Des Eggie (Chairman)*

*Victor Lucas (Vice-Chairman)*

*James Brown (Secretary/Treasurer)*

*Michael Lawrence (Member)*

*Kenneth Morton (Member)*

*William Purvis (Member)*

*Robert Sloan (Member)*

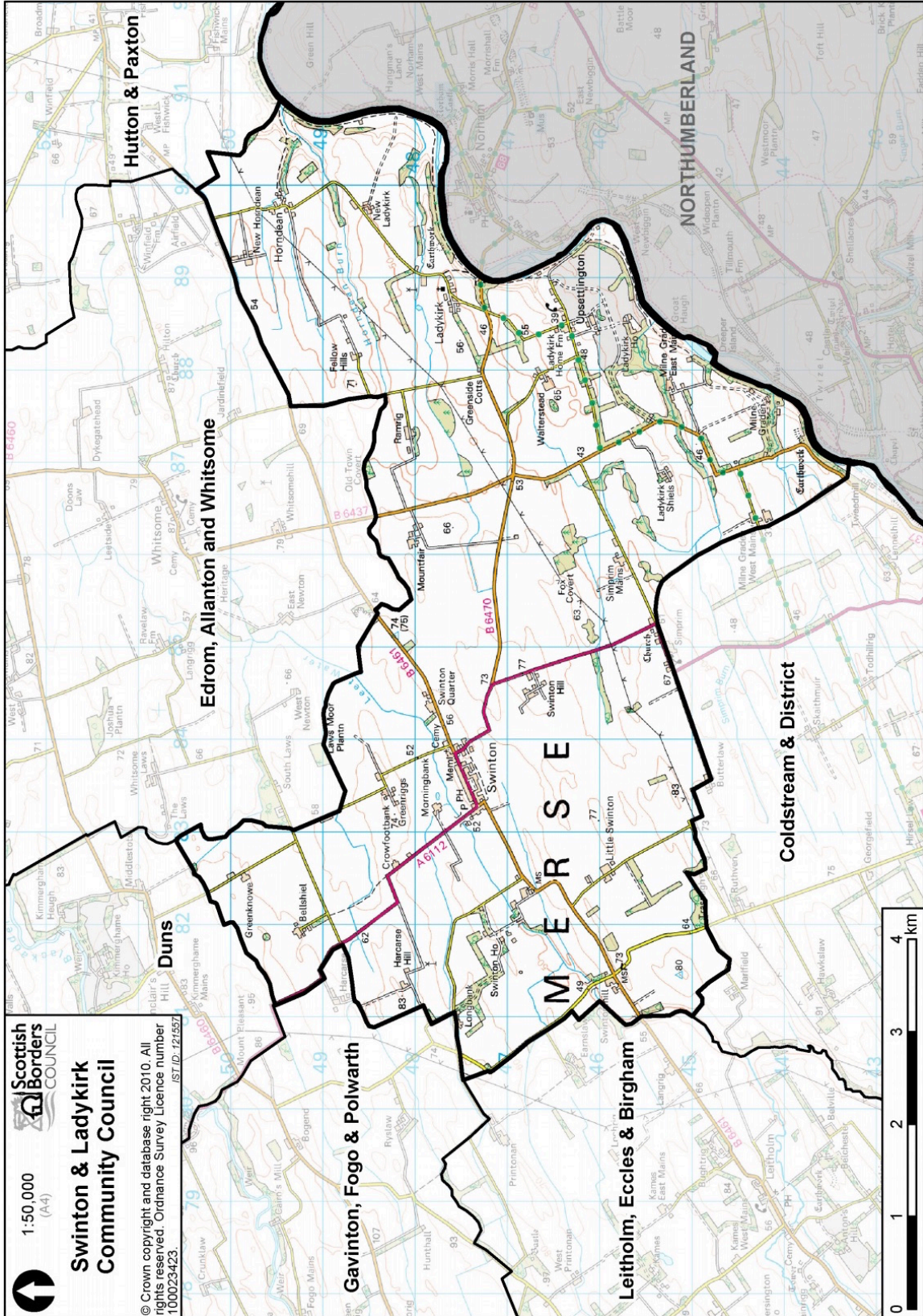
*Fiona Wilson (Member)*


*Meg Reid (Co-Opted Member)*

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### 20.0 APPENDIX 1 : COMMUNITY COUNCIL AREA




  
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**Swinton & Ladykirk Community Council**

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