

## The Highland Council

27 June 2013

Agenda Item	
Report No	

### Community Council Evaluation

#### Report by Corporate Manager

##### Summary

The report outlines the feedback received to an evaluation of the Community Council Scheme undertaken 12 months after the first elections. A series of minor amendments are suggested to the Scheme which Members are asked to approve. The report also provides background on other related areas of work including training, promotion of elections and a further consultation with Community Councils on engagement and involvement.

<b>1.</b>	<b>Background</b>
1.1	The Council approved a new Community Council Scheme (the Scheme) for Highland in March 2011. This came into operation on the 1 <sup>st</sup> April 2011 and the first elections held under the Scheme took place in November 2011. In recognition that this was a new approach and that there may be teething troubles, there was a commitment to evaluate the operation of the new Scheme 12 months after the first elections. This paper summarises the results of the consultation process and asks Members to approve amendments to the Scheme on the basis of this consultation. The Scheme document, with proposed amendments tracked is circulated separately.
<b>2.</b>	<b>Process</b>
2.1	In December, the Community Safety, Public Engagement and Equalities Committee agreed the approach to evaluating the Scheme. This involved three key stages: <ul style="list-style-type: none"><li>• Stage 1: November/December 2012 collation of comments and issues raised by Community Councils, Ward Managers and elected Members over the course of the previous year and suggested amendments formulated.</li><li>• Stage 2: January- April 2013 consultation with Community Councils and with Elected Members on the proposed amendments.</li><li>• Stage 3: April – June 2013 responses collated and considered and recommendations made to Council.</li></ul>
2.2	It is important to note that the Scheme is the operational framework through which Community Councils operate. Therefore the evaluation of the Scheme was designed to consider operational matters and ways in which to improve

	<p>this framework. Through the course of the evaluation a number of wider issues regarding the roles of Community Councils, their relationship with Highland Council and engagement and involvement have been raised. Although outwith the context of this specific review, it is important that these views are considered and this is discussed in section 5 of the report.</p>												
<b>3.</b>	<b>Responses received</b>												
3.1	<p>77 Community Councils responded to the evaluation out of a total of 152 that are currently operational.<sup>1</sup> This means just over half of all Community Councils responded to the evaluation. A further two responses were received from individual Community Councillors, whose Councils had already responded giving a total of 79 responses. These responses were spread fairly evenly across Highland as table 1 demonstrates:</p> <table border="1"> <thead> <tr> <th>Area</th> <th>Total Responses from Community Councils</th> <th>As a % of Community Councils within that area</th> </tr> </thead> <tbody> <tr> <td>North</td> <td>24</td> <td>59%</td> </tr> <tr> <td>Mid</td> <td>27</td> <td>40%</td> </tr> <tr> <td>South</td> <td>26</td> <td>54%</td> </tr> </tbody> </table> <p>A consultation session was also held with Elected Members following a meeting of the Council in March. The comments and views generated at this meeting are included within the report.</p>	Area	Total Responses from Community Councils	As a % of Community Councils within that area	North	24	59%	Mid	27	40%	South	26	54%
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<b>4.</b>	<b>Proposed Amendments and Recommendations</b>												
4.1	<p>The evaluation asked Community Councils to consider amendments across three headings: elections; membership and general. There was an opportunity then provided to raise any further issues or suggest potential amendments. An explanation of the proposed amendments and the response to these from Community Councils are outlined under each of the evaluation headings below.</p>												
4.2	<p><b>Elections</b></p> <p>Four proposed amendments were suggested in relation to election issues. The feedback received for each is outlined below along with a recommendation.</p> <p><b>Two stage election process</b></p> <table border="1"> <tr> <td>If enough nominations are received for a Community Council to operate but no ballot is required, then the Community Council is elected from the close of nominations and there is no need to wait until the election date.</td> </tr> </table> <ul style="list-style-type: none"> <li>All Community Councils agreed with this amendment.</li> </ul> <p><u>Recommendation:</u> agree the amendment as drafted at 6.2.4 (P9) of the Scheme.</p>	If enough nominations are received for a Community Council to operate but no ballot is required, then the Community Council is elected from the close of nominations and there is no need to wait until the election date.											
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<sup>1</sup> There is the scope for 156 Community Councils in Highland. Four are currently dissolved. They are Laggan, Caol, Inverness Central and Broadford.

### **Interim elections**

Interim elections for Community Councils which have fallen below half their membership level will be run three times annually by the Local Authority, spread over the course of the year.

- 96% of Community Councils responding agreed with this proposal. 2 Community Councils expressed concerns regarding the frequency of elections however it is proposed that this is the most efficient and effective use of Highland Council resources whilst continuing to support Community Council elections.

Recommendation: agree the amendment as drafted at 6.2.6 (P10) of the Scheme.

### **Interim election vacancies**

Where the number of Community Councillors falls below half, the interim election will only seek to fill the vacant positions or those held by co-opted members – there is no need to seek the re-election of the whole Community Council.

- 96% of Community Councils responding agreed with this amendment. There was a suggestion received that the whole Council should step down and a further comment that co-opted members should contribute towards the half.

Recommendation: agree the amendment as drafted at section 6.2.6 (P10) of the Scheme.

### **Dissolving a Community Council**

If, following an interim election, the Community Council fails to achieve the numbers required to operate, the Community Council will be dissolved at that time.

- 91% of Community Councils responding agreed with this amendment. Three comments were received that felt that a Community Council should only be put on hold and repeated attempts made to achieve the required numbers. There were also two comments that raised concerns about Community Councils who have taken on additional responsibilities within their community and what therefore happens to these when dissolved. Clarity was also requested regarding section 13 of the scheme in relation to dissolution. It is important to note that although it is proposed that a Community Council is dissolved following an unsuccessful interim election, this would not preclude 20 electors coming forward and petitioning for the Community Council to be resurrected as outlined at 13.2 of the Scheme. Elections in these circumstances would take place at the next round of interim or full elections, whichever is the sooner.

Recommendation: agree the amendment as drafted at 6.2.6 (P11) of the Scheme and the point of clarification at 13.3 (P17) of the Scheme and 17.3

	(P34) of the Constitution. Note that ‘winding-up’ guidance will be drafted separately to support Community Councils that are ceasing to operate.			
4.3	<p><b>Membership</b> Four proposed amendments were suggested in relation to membership issues. The feedback received for each is outlined below along with a recommendation.</p> <p><b>Re-election of office bearers</b></p> <table border="1" data-bbox="304 524 1422 562"> <tr> <td>Office bearers need to be re-elected at every AGM</td> </tr> </table> <ul style="list-style-type: none"> <li>88% of Community Councils responding agreed with this amendment. Seven Community Councils expressed concerns regarding the proposals citing that this could be time consuming at an AGM and also that it removed continuity in office bearers. It is not felt that this would be overly time consuming and it is quite within a Community Council’s rights to re-elect the same individuals but this provides an opportunity to change office bearers if that is the desire of the Community Council.</li> </ul> <p><u>Recommendation:</u> agree the amendment as drafted at 9.1 (P29) of the Constitution and 4.2.1 (P38) of the Standing Orders.</p> <p><b>Re-election of office bearers following an interim election</b></p> <table border="1" data-bbox="304 1043 1422 1117"> <tr> <td>Office bearers are always elected following a full election and should also be elected following an interim election.</td> </tr> </table> <ul style="list-style-type: none"> <li>94% of Community Councils responding agreed with this amendment. Five Community Councils reported that the office bearers should only be re-elected if an office bearer is one of the individuals who has stepped down. An interim election is only held when the number of elected Community Councillors has fallen below half. Given that the majority of the Community Council are therefore being elected, it seems appropriate that office bearers should be re-elected.</li> </ul> <p><u>Recommendation:</u> agree the amendment as drafted at 7.1 (P12) of the Scheme and 9.1 (P29) of the Constitution.</p> <p><b>Associate Members as office bearers</b></p> <table border="1" data-bbox="304 1599 1422 1673"> <tr> <td>Associate Members cannot be office bearers e.g. Treasurer, Chair, Secretary</td> </tr> </table> <ul style="list-style-type: none"> <li>84% of Community Councils responding agreed with this amendment. Concerns were expressed by 12 Community Councils regarding the pool of expertise to take on specialist positions such as the secretary and treasurer within a small Community Council. There also clearly remains confusion regarding the definition of an associate member and the existing role of the minute secretary which the Scheme currently provides for.</li> </ul> <p>Given that an associate member is not a full member of the Community Council, it is not appropriate that they should be the Treasurer and in</p>	Office bearers need to be re-elected at every AGM	Office bearers are always elected following a full election and should also be elected following an interim election.	Associate Members cannot be office bearers e.g. Treasurer, Chair, Secretary
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therefore in control of the finance of the Community Council. An alternative approach would be that the Community Council is required to have three office bearers from its membership (which protects the need to have three signatories) but that the position of Secretary may be filled by an associate member or minute secretary if the Community Council so wishes. In these circumstances the position of Vice Chair should be filled to ensure the Community Council retains three office bearer positions from full Community Council members.

Recommendation: agree the revised amendment as drafted at 9.1 (P29) of the Constitution. Note that further training will be provided (as outlined at paragraph 5.1) to assist in clarifying the roles and responsibilities of different membership positions.

#### **Office bearers and vote of no confidence**

A Community Council can hold a Vote of No Confidence in any of its office bearers, with a view to the removal of that office bearer. It is important to note that any individual would remain a Community Councillor.

- 92% of Community Councils responding agreed with this amendment. Six comments were received on this amendment. On the whole these were supportive but highlighted the need to ensure an appropriate procedure for how a vote of no confidence should be taken was provided. A concern was expressed regarding how this may affect the working relationships of a Community Council.

Recommendation: agree the amendment as drafted at 9.2 (P29) of the Constitution and 6.4 (P40) of the Standing Orders which includes an outline for how a vote of no confidence should be proposed and tabled.

4.4

#### **General**

Three general amendments were consulted on and the feedback received for each is outlined below along with a recommendation.

#### **Community Council in Abeyance**

If the membership of a Community Council falls below half then the Community Council must stop operating immediately and inform the Local Authority. The Community Council cannot operate again until an election has taken place.

- 89% of Community Councils responding agreed with this amendment. Four concerns were expressed regarding the interim period prior to an election and to what extent a Community Council can continue to operate. It is important to note that without the correct membership level the Community Council should not be operating nor taking decisions. It was highlighted that in relation to this point, clarity was also required at 6.2.6 of the Scheme in relation to a Community Council falling below half six months prior to a full election and in what circumstance may they be able to continue.

	<p><u>Recommendation:</u> agree the amendment as drafted at 6.2.6 (P10) of the Scheme and also clarification at point 6.2.6 (P11) which would only enable Community Councils to continue to operate 6 months prior to a full election if they met the quorum level of 4. Note that guidance will be provided by the named Council officer on how to provide continuity if a Community Council is in abeyance prior to an election.</p> <p><b>Annual Scheme Amendments</b></p> <div style="border: 1px solid black; padding: 5px;"> <p>Any proposed amendments with regards to the Scheme or Boundaries, will be considered by the Highland Council annually in June.</p> </div> <ul style="list-style-type: none"> <li>91% of Community Councils responding agreed with this amendment. Seven comments were received, in the main wanting assurance that any boundary amendments would only be considered by Highland Council following consultation with the communities affected. It is important to note that this would not prevent amendments being taken at other times if necessary.</li> </ul> <p><u>Recommendation:</u> agree the amendment as drafted at 14.3 (P18) of the Scheme. Note that a procedure on the process for agreeing boundary amendments be drafted and circulated to Community Councils.</p> <p><b>Financial Year</b></p> <div style="border: 1px solid black; padding: 5px;"> <p>The financial year for all Community Councils is April to March however, in election year, accounts require to be up to date and a mid-year balance taken prior to the election.</p> </div> <ul style="list-style-type: none"> <li>92% of Community Councils responding agreed with this amendment. There were a small number of suggestions which included amending the election period to coincide with the end of the financial year or changing the financial year for Community Councils to finish in September or October. It is not possible to amend the timing of elections for Community Councils as on occasion this would coincide with national elections and nor is it possible to amend the financial year for Community Councils as standard financial operating arrangements apply. It is not proposed that this should be onerous but merely ensuring that accounts are up to date prior to an election giving a clear outline of the balance held in accounts, along with the income and expenditure since the last meeting.</li> </ul> <p><u>Recommendation:</u> agree the amendment as drafted at 9.8 (P14) of the Scheme and 14.1g (P33) of the Constitution.</p>
4.5	<b>Additional proposed amendments</b>
4.5.1	Community Councils were asked whether there were further amendments they would wish to see made to the Scheme that would improve its operation and also whether there were concerns or issues to be raised. A number of the points made relate to queries and questions about operational matters and it is suggested that this is taken forward through further training which is detailed at 5.1.

4.5.2	<p>A number of comments were received in relation to insurance, liability for Community Councillors, and the ownership of assets:</p> <ul style="list-style-type: none"> <li>• Concern was expressed regarding the issue of Community Council assets, what would happen to these should a Community Council be dissolved and also the liability on individual Community Councillors. This was also raised as an issue during the consultation session with Members.</li> </ul> <p>Guidance to Community Councils makes very clear that the Council does not advise Community Councils to hold assets such as land but instead to consider establishing an arms-length incorporated body. This is because, as unincorporated bodies, Community Councils have no separate legal identity and the office bearers of the Community Council are individually responsible for the assets. Without a legislative change, this advice will remain not only to protect individual Community Councillors but also because there is no clear outlet for what would happen to the assets should the Community Council be dissolved. Whilst the Scheme allows for all assets to be held in trust by Highland Council until the next Community Council is formed, legal title to physical assets such as land or buildings would remain in the names of the former office bearers until such time as a conveyance or lease was granted in favour of the Council. There are costs involved in every such transfer of title or assignation of lease.</p> <p>Given these practical issues around ownership of physical assets the Council will continue to encourage Community Councils to consider establishing an arms-length body to hold such assets rather than the office bearers of the Community Council.</p> <ul style="list-style-type: none"> <li>• With regards personal liability, Community Councils with assets need to ensure that they have the appropriate insurance cover. This needs to be discussed with the Insurance provider in conjunction with the Council's Insurance Manager.</li> </ul> <p>It is <u>recommended</u> that neither of these points requires further clarification in the Scheme but Community Councils should be reminded of the guidance already provided in relation to assets.</p>
4.5.3	<p>A small number of comments were also made regarding a complaints procedure and the Community Councillors code of conduct. It was noted that there was a lack of clarity in the process to be followed should a complaint be received and also whether there should be sanctions attached to the code of conduct. Members noted that there was a need to remember that Community Councils are voluntary and that there is a need to consider the Code of Conduct within this context.</p> <ul style="list-style-type: none"> <li>• It is <u>recommended</u> that guidance be drawn up to assist Community Councils to deal with any complaints addressed to them.</li> <li>• The issue of sanctions in relation to the code of conduct is something that was being explored by the Scottish Government's Community Council</li> </ul>

	<p>Working Group. The Council's response to date is that given the close working relationship between Community Councils and Highland Council, it would not be appropriate for the Council to take a role in adjudicating in this matter as it may lead to a conflict of interest. There is also the related issues of the resources required to oversee this and also whether the Council would have the legal power to enforce such sanctions. It is therefore <u>recommended</u> that the code of conduct remain as it is unless a national scheme is introduced that supports and enforces sanctions.</p>
4.5.4	<p>Three Community Councils queried the term of office for Community Councils, suggesting that four years was too long and that a shorter period would be preferential. A suggestion was also received with regards the use of candidate statements from potential candidates as a way to improve engagement with the electorate.</p> <ul style="list-style-type: none"> <li>• It is <u>not recommended</u> that the term of office is amended. Four years is a standard election term and a shorter period would lead to reduced continuity.</li> <li>• It is acknowledged that candidate statements may assist in raising awareness and increasing engagement in Community council elections. It is therefore <u>recommended</u> that a pilot is undertaken with regards this with any interim elections.</li> </ul>
4.5.5	<p><b>Membership and Quorum levels of Community Councils</b></p> <p>Members will recall that one of the more contentious issues associated with the new Scheme was the standardisation of membership numbers. A minimum and maximum size for each Community Council was introduced alongside a formula determining the number of Community Councillors based on population and rurality. The purpose of this was twofold:</p> <ol style="list-style-type: none"> <li>1. To ensure that there was a relationship between the size of the Community Council and the population it serves;</li> <li>2. To encourage contested elections and therefore improve democratic accountability – the large number of Community Councillors in certain areas had meant that a contested election had never taken place.</li> </ol> <p>Alongside this, the quorum for Community Councils was set at 4. This followed consultation where this was identified as the preferred option rather than 3 or a third which was felt too low.</p>
	<p>14 of the 77 Community Councils responding to the current evaluation noted concerns at the reduced numbers of Community Councillors. Some reported the challenge to achieve quorum at times and others that the duties were falling on fewer shoulders. It was suggested by some that the reduction in membership had not encouraged elections and that nominations were managed to equal the number of members allowed. The consultation session with Members also highlighted the reduced numbers and quorum of 4 as an issue.</p>
	<p>Analysis of the election results from 2011 however does not support this view.</p> <ul style="list-style-type: none"> <li>• 27 (17%) of Community Councils had an election</li> </ul>

	<ul style="list-style-type: none"> <li>• 31 (20%) were uncontested elections where the number of nominations was the same as the total membership of the Community Council</li> <li>• 95 (61%) were uncontested elections where the number of nominations didn't reach the total membership of the Community Council</li> <li>• 3 did not achieve the number required to operate.</li> </ul> <p>Of the 95 Community Councils where the election was uncontested and the number of nominations did not reach the total membership of the Community Council, it was found that the higher the membership total, the less likely the Community Council was to achieve the nominations required and therefore proceed to an election. Highland Council has the second highest rate of contested elections across Scotland, following Orkney Islands Council.</p>
	<p>It is suggested that there are four potential options to resolving the issues outlined above:</p> <ol style="list-style-type: none"> <li>1. The status quo is retained. The majority of Community Councils appear content with the way the Scheme is currently operating.</li> <li>2. Membership levels are revised. It is suggested that all Community Councils could increase their allowed membership size by one. This would increase the available members and assist especially the smallest Councils whilst retaining the link between the size of a Community Council and the community it serves.</li> <li>3. Amend the quorum level. A number of the concerns expressed relate to the smaller memberships struggling to achieve quorum. If quorum was reduced to 3 or a third whichever is the larger, this would assist in overcoming this challenge. However, concerns were expressed by Community Councils in 2011 that this level was too low.</li> <li>4. Amend both the membership size and quorum level.</li> </ol> <p><u>Recommendation:</u> that the status quo is maintained.</p> <p>Members are asked to consider how they would wish to proceed in this regard.</p>
<b>5.</b>	<b>Further Areas of Work</b>
5.1	<p>As outlined above, a number of the points made by Community Councils in the course of the evaluation suggest that further training would be helpful. Members have also noted that they have received requests for further training. This would help clarify issues relating to roles and responsibilities of office bearers, insurance and assets and the process for boundary amendments. It is therefore suggested that an annual programme of training is introduced. This would encompass general Scheme issues and specific training on Planning matters supported by Planning officials. In addition to the annual programme, Ward Managers will continue to provide support and refresher training for any Community Council which has been through an interim election. Ward Managers will also continue to be the first point of contact for any concerns or queries that Community Councils may have on a day-to-day basis.</p>
5.2	<p>A further strand of work currently ongoing relates to the promotion and awareness raising of elections amongst the public and specifically 16 and 17</p>

	<p>year olds. The Elections team are currently beginning a programme of work to encourage the participation of 16 and 17 year olds in the democratic process. This relates not only to the Referendum next year but also participation in Community Council elections. Members also raised the issue of the need to promote awareness and participation in Community Councils with the general public. Reports on the progress of this approach are being considered by the Community Safety, Public Engagement and Equalities Committee.</p>
5.3	<p>As outlined at paragraph 2.3, a series of comments were received, largely from Community Councils in Easter Ross, relating to concerns about current engagement and involvement processes between the Council and Community Councils. It was reported that there was a need for better liaison between Highland Council (both officers and Elected Members) and Community Councils. This should not just be about consultation but about working together. Some expressed the view that Community Councils want to feel more involved and listened to by Highland Council and that their views were being taken on board. One or two Community Councils reported that this in turn would have a positive impact on the current disenchantment of residents in the work of Community Councils.</p>
5.4	<p>Related to increased engagement, comments were received that indicated there was a need to look at the structure and operation of Ward Forums and how Community Councils could be more engaged in these. One or two Community Councils suggested that Community Councils should have a seat on Area Committees. Some Community Councils expressed a desire for more responsibility however it is important to note that alongside these comments were others indicating that they felt too much was expected of Community Councils and the need to remember that they are volunteers.</p>
5.5	<p>Although outwith the context of this evaluation, there is a need to consult and consider the views of Community Councils in relation to structures for future engagement and involvement. To date, Ward Forums have been one of the pivotal engagement tools through which to involve communities but there is a need to consider how best these could be used and structured going forward. Members have already been canvassed on their views of Ward Forums as one strand of the review of Area Committees. As outlined in the paper on the review of Area Committees elsewhere on this agenda, it is proposed to canvas Community Councils and other key stakeholders on these matters as one strand of the review of Community Planning in Highland. This is likely to take place later this year and the results reported back after that.</p>
5.6	<p>It is recognised that there is a need to consider additional roles that Community Councils may wish to take on, within the context that not all share this expectation nor have the capacity to do so. The Community Challenge Fund is one potential avenue for Community Councils to follow should they wish to take on greater roles locally.</p>
5.7	<p>Members are asked to note that following a consultation last year, a draft Community Empowerment and Renewal Bill is expected to be published in late summer. The Bill will be subject to consultation and is likely to contain</p>

	implications for the Council's wider consultation and engagement processes. Specifically for Community Councils, it may also contain legislative changes which the Council will need to consider and revisit accordingly.
<b>6.</b>	<b>Implications</b>
6.1	<b>Resource implications:</b> there are no resource implications for this paper. The Council provides an annual grant to all Community Councils in Highland, the total of which is £208,000. The Council also pays for all Community Council elections which it runs. Day to day support and training for Community Councils is provided through existing structures.
6.2	<b>Legal implications:</b> legal services have overseen the drafted Scheme amendments.
6.3	<b>Equalities implications:</b> an equalities impact screening was undertaken when the Scheme was drafted. This will be updated following the latest evaluation.
6.4	<b>Climate Change implications:</b> there are no climate change implications.
6.5	<b>Risk implications:</b> there are no risk implication.

### Recommendation

Members are asked to:

- Agree the recommendations as detailed at section 4 in the report;
- Note the future work planned, including a consultation with Community Councils later in the year on consultation and engagement as part of the review of community planning in Highland.

Designation: Corporate Manager

Date: 28-5-13

Author: Alison Clark, Policy Officer (2512)

Background Papers: Updated Scheme of Establishment for Community Councils  
(circulated separately)