

The Highland Council

10th March 2016

Agenda Item	
Report No	

Proposal to Establish a Commission on Highland Democracy

Report by Head of Policy and Reform

Summary

This report seeks Council consideration of a Commission on Highland Democracy.

1. Background

- 1.1 The Highland Council has taken a keen interest in the work of the Commission on Strengthening Local Democracy and the report it published in 2014: [‘Effective Democracy: Reconnecting with Communities’](#). The Council debated the report at the Council meetings on 30th October 2014 and 12th March 2015.
- 1.2 The report contained 25 recommendations. They are appended. Most require consideration nationally (some now feature in the Community Empowerment legislation) and others are aimed at local government and Community Planning Partnerships (CPPs). For local government it is recommended that Councils revisit their scheme of decentralisation and adopt a process of participatory budgeting. For CPPs it is recommended that CPPs work with communities to design and implement a clear empowerment scheme and that they develop an approach to community scrutiny to complement existing arrangements.
- 1.3 Importantly the Commission saw its work as the start of a process and called for new conversations to rebuild democracy, and for that to bring in many voices and perspectives ‘..to come together to learn, challenge, and explore inspiring ideas. To be effective that must be genuinely inclusive of communities of interest and place, and with cross party buy in.’ (p37) The Commission sees the work required as a long term endeavour, over a 10 to 15 year period and called for new democratic experiments across Scotland.
- 1.4 From March to December 2015 strengthening local democracy has been raised at every Council meeting. In October 2015 Members agreed a localism action plan that includes:
 - The establishment of seven new local committees with new and emerging local powers¹. They will all have met for the first time by the time of the Council meeting in March 2016.
 - New joint work with partners to develop local community planning arrangements.
 - Trialling participatory budgeting (PB) in several locations. By the end of March 2016 PB will have taken place using ward discretionary budgets in Lochaber, Caithness and Nairn, with events being planned for

Sutherland, Skye, Inverness West and possibly Badenoch and Strathspey. A masterclass for Members is scheduled for the afternoon of 24th March 2016.

- Establishing a strategic Committee for Communities and Partnerships with a remit that includes overseeing the approach to implementing the new duties on the Council arising from the Community Empowerment (Scotland) Act, 2015.
- A programme of work to implement the Act including how to respond well to participation requests from community bodies and supporting asset transfers to community organisations.
- Developing transformation projects that support community participation in service delivery.
- The development of a training programme for staff, partners and Members to support local community planning and new public participation methods.
- Campaigning activity that seeks further devolution of power to Highland including providing views on a proposed Islands Bill, Scotland Bill and Land Reform Bill and supporting the Seven Cities Strategy and City/Region Deal.

1.5 At the December 2015 Council meeting the first revisions to the Scheme of Delegation were agreed and Members noted that a proposal for a Highland Commission on Democracy would be brought back for consideration.

1.6 All of these actions support the commitments in the Highland First Programme to strengthen local democracy, empower communities including in the running of services and develop local community planning.

1.7 The Highland Community Planning Partnership also has a commitment to engage in dialogue with communities in order to empower them to participate in service planning and delivery. It has new duties arising from the Community Empowerment (Scotland) Act 2015 to involve people and communities in decisions affecting them.

1.8 It is worth noting that there is appetite among the Highland public for greater involvement in decisions that affect them. In 2014 the results from the Council's Citizens' Panel showed that:

- 77% were interested in the democratic process;
- 69% would like to be involved in decisions-making in their area or in the country; and
- 48% agreed that every citizen should get involved in democracy if it is to work properly

However the survey also showed that:

- only 20% agree that the Council involves people in how it spends money; and
- only 18% feel they have any influence over decision-making in their local area.

2. Proposal for a Commission on Highland Democracy

2.1 To follow up the national Commission's recommendation to continue conversations locally about the kind of democracy we want to have in the Highlands, the Council's leadership is keen to establish a Commission on Highland Democracy. It would gather a wide range of views from communities, community councils and community organisations on how best to enable public participation in decisions about public services and how to encourage good democratic practise. It could help to inform the development of the Council's localism action plan.

2.2 The questions the Commission could pose might include:

1. Are the current and new arrangements the best arrangements for community choice and voice in Council decision-making and, if not, what alternatives would communities wish to see?
2. What is engagement like with other public bodies and do communities seek to engage differently with them?
3. Specifically, if change is necessary, is it to the spatial scale and empowerment of local decision making; is it about making the process more accessible and "user friendly" to communities; is it about ensuring no-one is excluded; is it about attitudes, behaviour and practice; or is it about other factors (such as financial constraint)?
4. Do communities feel well supported to participate, and do they feel that their participation would actually have an impact? If not, what support and facilitation would be necessary to give communities the confidence that participation is possible and worthwhile?
5. Do communities want to be more directly involved in the running of local facilities and public services and, if so, what sort of involvement do they want and what sort of support do they need?
6. More broadly, what can we learn from research and international evidence on areas similar to the Highlands about innovative and effective models for decentralisation, public participation and community empowerment?

2.3 The views gathered on these questions could offer insight not only to the Council in how it should operate but also to others, including Community Councils, our community planning partners (public bodies and third sector organisations) and potentially influence policy at a national level. The Council has an ambition to be at the forefront of bringing democracy closer to communities and the Commission would support this aim.

2.4 Following the example of the Commission nationally, up to 15 Commissioners with a range of perspectives could be appointed to explore these issues with communities across the Highlands. These would not have to be paid positions.

- 2.5 In establishing a Commission there are some key issues that need to be clarified, namely:
- What would the provenance of the Commission be and who would it report to?
 - How independent would the Commission be, or need to be?
 - Could the Commission inform the Council's new design work following the budget decisions made?
 - Are our community planning partners interested in supporting the Commission and would they be interested in the issues raised by it, potentially affecting their current practice too?
 - Would the Scottish Government be interested in supported it?
 - Are there other issues for the Commission to explore?
 - Are there areas that should be out of scope for consideration?
 - How would Commissioners be selected and to reflect diversity?
 - How could the Commission be resourced?

2.6 The Council Leader has engaged Rory Mair CBE, the former Chief Executive of Cosla and resident of the Highlands, to develop a Commission. He is available to meet with Group Leaders, and if they wish to meet with their Groups, to discuss the issues above in establishing a Commission. In addition it would be helpful for these discussions to identify potential Commissioners. He would also be able to engage with stakeholders, especially community planning partners, to assess their interest too.

2.7 A further report on this engagement can be brought to Council in May.

3. Implications

3.1 Resource implications

Any proposal for a Commission would have to be affordable. There is no cost attached with engaging Rory Mair CBE. Council support could be in-kind and associated with the engagement of the public and within current budgets (e.g. surveying our Citizens' Panel). Other organisations may wish to support the Commission and this could be clarified during the stakeholder engagement. Commissioners would not have to be paid but some costs associated with travel and subsistence would be expected.

3.2 Legal implications

The Community Empowerment Act places a duty on public bodies to enable public participation in decision-making. The statutory guidance is awaited, but the Council's support of a Commission to explore how best to enable the public to participate would demonstrate commitment to this new duty.

3.3 Climate Change/Carbon Clever implications

A Commission would no doubt involve travel to hear evidence from communities but it could also engage electronically.

3.4 Risk implications

There are several risks associated with a Commission including stakeholder support for it, clarity of its purpose, recruiting Commissioners, the time scales for it, resources required, its success in engaging with diverse communities

and being listened to. Working with group leaders and stakeholders from the outset should help gauge the support for a Commission and clarify its purpose and way of working, thus mitigating any risks.

3.5 Gaelic implications
None are identified.

3.6 Rural implications
The purpose of any Commission would have to be mindful of improving public participation in rural as well as urban areas within Highland.

4. Recommendation

4.1 Members are asked to agree to group leaders (and their groups if they wish) engaging with Rory Mair CBE to:

1. consider the issues associated with a Commission on Highland Democracy, as outlined in this report;
2. Identify potential Commissioners.

4.2 Members are asked to note that:

1. similar engagement will take place with stakeholders, notably community planning partners; and
2. that the outcome of this engagement can be reported to the Council in May this year.

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Background Papers: Meeting notes and correspondence with Rory Mair CBE.

Recommendations from the Strengthening Local Democracy Commission report Effective Democracy: Reconnecting with Communities (2014)

1. A fundamental review of the structure, boundaries, functions and democratic arrangements for local governance of all public services in Scotland. The review to ensure it includes everyone, particularly ‘.. those who are furthest from democracy...’
2. The review above to be jointly undertaken by Scottish Government and local government and designed and resourced to enable the full participation of communities across Scotland.
3. A new ‘right to challenge’ in the democratic system, including the right for local government to challenge functions currently delivered by national agencies
4. Local democratic accountability for community health services and public health as part of the development of an integrated approach to prevention locally
5. That local governments, having engaged their communities should have the right to veto and require change in local police and fire plans
- 6 -10 recommendations on local taxation: 6. Local taxation options together should raise at least 50% of income locally. 7. Local government has full control of all property based taxes and freedom to set them locally. 8. Local people should decide levels of taxation. 9. Local government to be able to set and raise new taxes. 10. All above local taxation options to be reviewed.
11. A binding duty on local governments and locally delivered public services to support and empower individuals and communities to participate in local decision-making.
12. A specific duty to ensure that all groups likely to face barriers to participating are supported and resourced to do so.
13. All local governments revisit their scheme of decentralisation.
14. A process of participatory budgeting, covering tax and spending options, is adopted by all local governments to enhance local choices over tax and spend within a new system of local government finance.
15. Every CPP works with its communities to design and implement a clear empowerment scheme.
16. All CPPs develop an approach to community scrutiny to complement existing arrangements.
17. A significant and systematic reinvestment in Community Learning and Development in each area of Scotland.
18. Establishment of a centre of excellence in participatory democracy to research good practices and promote and support their use.
19. That after these measures have been established a stock-take is undertaken to determine their impact and identify what further steps are required.

20. The principles set out in the European Charter of Local Self Government have to be put on a statutory basis in Scotland.

21. The competencies of democratic bodies at all levels of the system should be codified so that their roles are transparent and accountable to all citizens.

22. Scottish Ministers should be placed under a legal duty to 'local proof' all legislation through a subsidiarity test.

23. An independent Commissioner is established to scrutinise compatibility of UK and Scottish policy and legislation and provisions of the law.

24. National elected governments have a clear mandate to establish priorities for the nation and to set and protect citizens' rights in law.

25. Independent Office of Wellbeing is established to independently monitor and report on the impact of fiscal and macro-economic policy on communities' wellbeing.

ⁱ The first revision to the Scheme of Delegation agreed in December 2015 focused on the links to be made with local community planning partnerships, agreeing local engagement approaches, ensuring productive working relationships with community councils, powers to purchase and dispose of Common Good Trust assets up to 10% of the value of the Common Good Fund and using participatory budgeting for any funds decided by the local committee. The second proposed revision to the Scheme in March 2016 focuses on devolved decision-making and budgets for aspects of Community Services. Further changes are anticipated from duties arising from the Community Empowerment Act (2015) and the current legislative programme.