

Agenda Item	10
Report No	HC/17/17

## HIGHLAND COUNCIL

**Committee:** The Highland Council  
**Date:** 29<sup>th</sup> June 2017  
**Report Title** Commission on Highland Democracy  
**Report By:** Acting Head of Policy

### 1. Purpose/Executive Summary

- 1.1 The Council took a keen interest in the findings of the Commission for Strengthening Local Democracy and sought to explore ways in which to improve local decision making and engagement within Highland.
- 1.2 At the Council meeting in March 2016, Members were advised of proposals to establish an independent Commission on Highland Democracy. This would be chaired by former COSLA Chief Executive, Rory Mair. Since then the Council has supported the work of the Commission by providing secretariat support through the Policy Team in the Chief Executive's Office.
- 1.3 The Council has received regular updates from the Commission over the course of the last year, including how Commissioners were appointed, timescales, methodologies, initial evidence gathered and an interim report which was presented at the Council meeting in March 2017.  
[www.highland.gov.uk/download/meetings/id/71817/item\\_9\\_commission\\_on\\_highland\\_democracy\\_%E2%80%93\\_interim\\_report](http://www.highland.gov.uk/download/meetings/id/71817/item_9_commission_on_highland_democracy_%E2%80%93_interim_report)
- 1.4 The final interim report from the Commission has now been drafted and can be found at appendix 1. The Chair of the Commission will be in attendance to discuss the draft findings of the Commission.
- 1.5 Following consideration and comment by the Council, the Commission would intend to produce a final report that is in a public friendly format.

### 2. Recommendations

- 2.1 Members are asked to:
- Consider and discuss the draft final interim report from the Commission on Highland Democracy.

### 3. Implications

There are no implications arising from this report at this time.

Designation: Acting Head of Policy

Date:29/06/17

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**The Commission on Highland Democracy Final Interim Report-June 2017**

**INTRODUCTION**

Throughout the work of the Commission on Highland Democracy, sponsored by the Highland Council, the Commission has updated the Council on a regular basis on the progress of the work. The Commission is now at the stage of producing a final report which will pull together all of its work over the last 6 - 8 months comprising sections on methodology, findings and conclusions on a way forward.

The Commission has previously reported back to the Highland Council on two occasions. The first Interim Report dealt with methodology and approach; the second dealt with the emerging findings arising from community involvement and participation. This third interim report focuses on putting forward some suggestions regarding action which has to be taken in order to strengthen local democracy in the Highland area.

As well as being the Commissions' sponsor, the Highland Council is an important stakeholder in the Commission's work and one of the foremost public bodies whose actions can affect the quality of democracy on the Highlands. For this reason, the Commission is keen to stress that this final interim report is not placed before the Council just for information. The Commission would genuinely welcome the Council's considered views on any proposals we are making and will take these views into account in our final report.

**DETAIL**

The majority of the remainder of the report below concentrates on proposals from the Commission regarding how local democracy in the Highlands might be strengthened. These proposals are a direct response to the issues that have been raised with the Commission by citizens and communities during the consultative elements of our work. These issues have previously been reported to the Council. However, given the number of new Council members receiving this report, it is worth reiterating our main findings, at least in brief.

Overall, there was a feeling that the democratic process in the Highlands was not working as well as many citizens and communities felt that it should. At the heart of this criticism was a perception (right or wrong) that those in power in the area's public agencies, whether at an executive, representative or governance level, had little interest or motivation to share that power with anyone else.

In short, there was real scepticism that making democracy work, and opening policy and decision making to greater democratic involvement was something that those

leading the area's public bodies really wanted to do. It is fair to say that this scepticism also applied to the work of the Commission and we were frequently accused of being yet another group of "the great and the good" telling the community what had to happen.

In addition to this general dissatisfaction with the democratic process as it currently operates, citizens and communities came up with a number of very specific issues which they felt had to be addressed. These are as follows:-

1. Communities and individuals want involvement, not consultation and they are acutely aware of the difference between these two approaches.
2. Centralisation/decentralisation is not primarily a geographic issue. It is much more about inclusive or exclusive decision making.
3. Involvement with the democratic process should be integrated with the daily lives of citizens; not organised to suit the way in which public bodies work.
4. Communities want to see an appropriate balance between representative and participative democracy.
5. Communities want to see an appropriate balance between professional and executive, community based and representative inputs to decision making. Currently communities feel that professional inputs are the principal determinants of outcomes.
6. Communities and citizens expect that there will be considerable interconnection and joint planning between the various public bodies that serve their needs.
7. Communities and citizens were concerned that the ability of public bodies to secure and interpret complex information can be used as a powerful "weapon" to ensure that agencies get their own way.

These findings have all been discussed in some detail in previous interim reports but it is worth noting that our most recent survey work where the Commission sought assurance from the community that we had understand their concerns correctly, overwhelmingly supported the Commission's identification of these concerns being of the greatest importance.

The Commission has considered these issues at considerable length and does, in the following sections, offer some proposals regarding how the Commission would wish to see public bodies respond. It is important, however, that public bodies do not simply look to these sections of the report for advice on a way forward. The identification of specific community concerns and assurances about their importance are valuable in their own right, giving public bodies a clear set of community expectations upon which to base a response. Even if it is felt that some of the

proposals by the commission are not the right ones, the Commission is sure that the issues identified are important and demand a response. It is obviously the responsibility of each agency to respond to these issues as they see fit. In doing so, they may take the Commission's advice or not, what's important is that a thought through response to these community concerns is made.

The whole point of the democratic process is that those with a governance responsibility for public bodies should decide their direction and operating practice. Communities can then hold them accountable for these decisions. The Commission has neither the remit nor all the skills necessary to prepare very detailed advice and guidance for each public body to respond to every concern. We do however strongly encourage all public bodies to consider what communities have told us and how they might best respond.

The Commission has thought long and hard about why it is important that public bodies do respond to community concerns regarding the state of highland democracy. There are a number of reasons for this, not least a national direction of travel towards more empowered and involved communities. The Commission does however wish to highlight three key factors which might encourage public bodies to engage with this agenda.

Firstly, public bodies have that unique status for a purpose. By and large public bodies provide services that stem from public need and for which there are few, if any, alternative providers. Most citizens, no matter how empowered they are cannot simply take their custom elsewhere if they wish to send a clear message to providers that they are unhappy. In the absence of these traditional market forces, democratic governance and accountability provide the link between the provider and the citizen. At its best, this arrangement can promote a very special and productive relationship. However, if there are not effective democratic processes public bodies can run a very real risk of becoming poorly regulated monopolies with little or no connection with their communities.

Secondly, much has been made of an increasing volatility in community politics locally, nationally and internationally. This volatility, suggested as a potential reason for the recent rise in populism however justified does not provide the stable conditions in which public services can thrive and be developed. A suggested cause of this new populism is a feeling that many ordinary people are quite detached from traditional political structures and decision making and have to try something new to regain any influence. The Commission's work suggests that in the Highlands, citizens and communities still do want to engage with traditional political and accountability processes. They just feel that the routes to doing this need refreshed and opened up to be genuinely more inclusive. This continued willingness to engage is a Highland asset that local public bodies should choose to nurture and develop.

Lastly, all public bodies are in the midst of a period of financial constraint that will almost certainly continue for the foreseeable future. Communities seem to respect the fact that their public bodies are doing whatever they can to make their services

more efficient in the way they are delivered. They understand the drive to deliver in the most efficient way, even if this means changes to the way they receive services. However, they feel that a major part of efficiency is the identification of the right and most important services to deliver in the first place. Citizens and communities believe that as a constructive partner to public bodies they can help drive efficiency in this regard. They feel they can help to ensure that every penny of public money is spent on only the most important priorities. Citizens and communities are concerned that in recent years one response to financial constraint has been increased centralism and direction through powerful, exclusive decision making. Their belief is that even if this approach might work somewhere the size, scale, geography and cultural diversity of the Highlands means it won't work here. Communities believe that if they are allowed to be a constructive partner to local public bodies they will help create a more local, more sensitive, more knowledgeable public sector that will save resources rather than cost them.

## **THE COMMISSION'S THOUGHTS ON POSSIBLE RESPONSES**

There seems to be little doubt that any solution regarding democracy in the Highlands is going to be a combination of two sorts of action. Some things are strategic and cultural and some are more tactical and transactional. It is important to see the link between these and the need to see them addressed concurrently. No tactical transactional changes are going to mean very much if they take place in a strategic and cultural setting that does not value ongoing democracy as highly as it should. Equally having some overall statement and fine words about democracy that are not translated into practical changes and actions will be unlikely to convince the public we have been speaking to that anything has changed.

There are timescale issues here. Cultural and strategic change is notoriously difficult to bring about and can take a long time but people will want to see quick changes as a result of the Commission's report. Achieving some appropriate balance between quick action and long term cultural and strategic change will be a challenge for highland public bodies. This is especially true, as in the eyes of the community, some of the highland public bodies are "strategy light".

In trying to suggest some ways forward the Commission feels that rather than concentrating on the negative, we should try and outline what we believe communities would "think good looks like". We have therefore chosen to outline what communities would expect to be in place if democracy in the Highlands was functioning better than it currently is.

## **THE IMPORTANCE OF STRATEGY**

Communities and citizens understand the importance of strategy as a corner stone of the democratic process. In this context, strategy is not seen as some dry policy tome

but rather a statement of clear purpose clear priorities and outcomes that agencies are trying to achieve. Communities expect that as these are public bodies, these strategies must be expressed in terms that the public can understand and must be capable of actually being used.

Everybody the Commission has spoken to knows that resources are tight and that not all the services they might want will be available. What they wish to know is: what are agencies priorities, why were they chosen, and what outcomes will these choices deliver? They also wish to be assured that if choices need to be made between one spend or another those clear purposes, clear priorities and focus on improved outcomes will be the consistent basis on which investment decisions are made? It is often difficult to see such clear statements from Highland public bodies and this has a number of important consequences.

The first is, that without diminishing or excluding the importance of executive advice and involvement, these strategies are the responsibility of governance i.e. the people who are to be held accountable. Without these, communities and citizens are confused regarding what they do about accountability. If such strategies do not exist and are clearly owned by an agency's governance, it's no surprise that people believe that executives are too powerful. It is almost impossible to see how governance holds executive to account if no such clear strategy exists.

In truth, communities believe they know what happens. In the absence of any other process, both they, the public, and those in governance roles have to focus on control through challenging individual decisions. Instead of holding agencies to account for the cumulative effect of their work both governors and the public grab onto controlling those decisions they can get their hands on.

Communities and citizens find this hugely frustrating. They know that far too many decisions are taken every day for this to be anything other than superficial. Decisions that are discussed are identified on an arbitrary basis and in the absence of effective strategy and priorities. As a result, the outcome of decision making often appears random. Understandably, executives also dislike this process. Firstly, it smacks of micro management and secondly, when the public and governors do become involved in decisions it can be confrontational, inconsistent and doesn't deliver the stability necessary for effective services.

The Commission is convinced that these difficulties do not arise because anybody deliberately behaves badly. They are the inevitable consequence of an absence of an effective strategic process. For democracy to really work, those with governance responsibility must accept the responsibility for providing the clear strategic, framework outlined above. Communities expect that they will also have a clear and effective process by which they can hold their executive to account and if outcomes are long term, they need a clear idea of how progress will be monitored along the way. The democratic process then becomes the interaction between the public and this strategy, not a constant failing and anyway ineffective bun fight over individual decisions. Communities and citizens understand that, for their part, the executive of

the agencies will necessarily be involved in the articulation and development of strategy. The community expects that they will then commit to making decisions within the framework and alerting governance when necessary decision making and strategy seem at odds.

## **UNDERSTANDING DEMOCRATIC RESPONSIBILITY**

The community and citizens expect that part of this strategic framework would be a statement by every public body outlining their understanding of their democratic responsibilities and how they will maximise the value and importance of what is after all, a very peculiar and particular status. Communities expect that, as all the public bodies in the highlands are, by definition under democratic control, they will be able to explain how they intend to make that accountability real and effective. Given the time and effort communities have expended engaging with the Commission, they would expect that the issues they have raised regarding the current difficulties with the democratic process would be explored in these statements.

Communities and citizens understand that there may be some differences in the direct nature of democratic accountability between an agency like the Council, which is very immediately accountable to local citizens, and the Highland Health Board which has a clear accountability to parliament and the cabinet secretary, as well as a local connection. However direct accountability is, communities would benefit from a very clear understanding of how the agency itself thinks it is supposed to work.

As well as dealing with how accountability works, these statements will help to give communities and citizens a clearer picture of who is accountable for what. This is important because the Commission recognises that communities and citizens cannot hold agencies to account if they don't know what those agencies are responsible for.

Of course, in an ideal world, communities and citizens would wish all local agencies to be totally accountable for everything they do. However, communities understand that this is not legally possible and may not even be desirable. They do however want a clear statement from agencies regarding what level of accountability the agency expects to develop and how they will make that accountability real and effective.

## **LOCALITY PLANNING AND INVOLVEMENT**

As part of strategy development, communities and citizens expect that the broad thrust of the community planning and community empowerment legislation should be fully embraced. They therefore expect that at a very local level some form of community profiling and planning should be done by all agencies jointly.

In other words, there should be a collective and in depth look at an area's needs, its aspirations, its problems and its opportunities between the agencies. A local plan for

each area reflecting the public bodies' explicit strategy and priorities should then be produced. Communities expect that, as legislation suggests, these plans should be based on a digest of agreed profiling information which should be equally available to the community and the agencies. This digest of information should be the source of all local planning and decision making thus relieving the tension of disputed source information.

This process would address a number of the issues communities and citizens raised with the Commission through our investigation. Firstly, these plans would be developed within a framework of explicit strategy thus encouraging local people to engage with their representatives over their development.

Secondly, the development of these local plans is necessarily longer term and developmental. That allows the process to focus on involvement and engagement rather than simple consultation. The focus can be on the plan and its implementation rather than one off decision-making.

There is the possibility of a significant role for Community Councils in this process. They are a statutory part of governance in Scotland and they should be part of this planning process in a meaningful way (the status and support of community councils is raised as a separate issue elsewhere in this report).

Lastly, the process of development can seriously embrace activism as well as representation. This may open the possibility that the plans will lead to actions and continued community activity to achieve ambitions which cannot be delivered by the statutory agencies working on their own.

Communities and citizens would then expect that service plans for Education or Health for instance would have to be respectful of these local plans and show how they deliver them rather than be developed in a more abstract, technocratic way. Communities want to see a clear line of sight between overall agency strategy aspiration and outcomes, local plan development and the day to day service decisions that agencies make.

## **COMMUNITY COUNCILS**

It is fair to say that communities and citizens expressed quite diverse opinions on the question of the role and value of community councils. Some community councils appeared to be doing a really good job and have the confidence and support of their communities. In some cases, however, communities believe that their community council is exclusive, unrepresentative and dominated by vested interests which make little or no attempt to reflect the views of the whole community.

What seems clear to the Commission is that community councils find themselves in something of a no man's land in terms of their statutory role and ability to function. Community councils are part of the statutory framework of representation in Scotland



and if they were all equally strong and effective and able to play a full part in decision making, Scotland would be on a par with the more decentralised countries in Europe with regard to local democracy. However, it is equally clear that while community councils have to exist, many of them do not have the capacity, resources, support and interest to represent their communities properly. In addition, communities themselves recognise this and in many cases, interest in the community council and the value placed on them by their communities is limited.

The Commission believes that a decision needs to be made by the public bodies regarding moving community councils out of this no man's land. They either have to be supported, developed and resourced in such a way that they can play a full and active part in representative democracy on the Highlands, or it must be recognised they don't and can't carry out this function. Even if community councils cannot reach the standards and capacity expected of a representative body, this does not mean they are lacking value. They may still be a focus for community activism and in a situation where there is a better balance between representative and participative democracy; they can have real value in that capacity.

The Commission does not mean to criticize or denigrate community councils in any way but we have to reflect the views of the number of people who saw community councillors as being every bit as distant, unrepresentative and exclusive as any of their other elected representatives.

It is not for the Commission to decide how this issue should be resolved but there is little doubt from the evidence we have collected that local communities and citizens would value a representative body very close to their communities resourced, supported and capable of playing a full part in local democracy on their behalf.

## **MAKING INDIVIDUAL DECISIONS WITHIN A DEMOCRATIC FRAMEWORK**

Communities and citizens recognise that even within this revised strategic framework individual decisions will have to be made and they will remain a focus for accountability and democracy. Communities expect that a number of issues will be addressed by public bodies to secure more effective involvement and engagement around decision-making.

Communities consider that in order to address the issue of balance between democratic and technocratic inputs to decision making, changes are needed.

The Commission considered recommending a very prescriptive set of rules regarding how officers prepare reports. However we want to see a change in culture and approach around this issue and recognise that rules and prescription won't necessarily deliver this. Instead we are asking officers to embrace a more demanding challenge.

In addressing any issue that may be the subject of a report to decision makers the Commission proposes that officers adopt the following approach

Firstly they should consider how much the agency already knows about communities views of an issue and whether this is sufficient knowledge upon which to base informed decision Secondly all officers should ask how the agencies understanding of communities views and what they and their colleagues can do to generate better knowledge and understanding and put that in front of decision makers as they consider the issue Thirdly when and if recommending a way forward reports should explain how community views and opinions have been taken into account and informed the recommendations.

Lastly when the recommendations in reports do not reflect community views , in whole or in part, officers should explain what overriding other considerations have led to the recommendations and why. It is of course important that officers have the option to recommend actions that go against community views. However when this happens decision makers and communities should know that's what's happening and why.

Communities are clear that they want all agencies to be extremely careful about how they manage public consultation. While individual restricted decisions may lend themselves to consultation, strategic thinking requires and demands involvement and engagement. Agencies must not confuse the two.

Responding to consultation takes community time and effort. It must be possible across agencies to ensure that differing requests for consultation responses don't put an impossible workload on communities at any one time.

Agencies must recognise the time it takes for communities to respond effectively and time their consultation requests in a way that makes room for that to happen and ensures that decisions are never taken while responses are still coming in.

Agencies must always acknowledge consultation responses and give detailed feedback to communities regarding the cumulative outcome of the consultation and how that has affected decision making. These are the minimum requirements for consultation and if agencies cannot meet those they should honestly admit that they are not doing "consultation "at all.

Communities are aware that many agencies are considering their approach to decentralisation. There is little doubt that communities believe that in an area the size of the Highlands more local decision making is required and expected. In developing their plans, communities would wish all public bodies to adopt the principle of subsidiarity with regard to where and how decisions are made. In other words, instead of "the centre" deciding which decisions should be taken at an area level, it should be agreed that all decisions will be taken at a local level unless there is an overriding argument for them to be taken on a more Highland wide basis. Adopting this principle, would reassure communities that the wide variety of geography, economy and culture that exist within the Highland area will be reflected in decision making.

in addition to more decisions being made locally, communities also want greater local input to decisions that are taken on Highland wide basis. In trying to satisfy both of these community aspirations as best they can, agencies should be mindful of the communities view that decentralisation is not primarily a geographical matter. Their view is that it will not matter where decisions are made if the way they're made continues to exclude them. Inclusive decision making is more valuable than exclusive decision making that's more geographically dispersed.

Given so much of the communities concern about democracy, reflects the attitude and day to day practice of elected representatives, communities would like to see a programme of continuing professional development for all elected representatives. This would involve programmes of induction, training and support to ensure that all of a communities' representatives, be they community councillors, councillors, MPs, MSPs etc. were aware of their practice and constantly striving to improve it to meet the needs of their communities. Throughout the Commission's work, Highland people have paid a great compliment to their representatives. There has been no evidence of a wish to move away from traditional forms of representative democracy; more a wish that these forms simply worked better. Communities are prepared to commit to their elected representatives but they do expect a level commitment in return. An ongoing commitment to professional development seems to be a reasonable request in this regard.

## **COMMUNITY RESPONSIBILITY**

This report focuses almost entirely on the approach, actions and behaviours of public agencies. However participative democracy also demands a mature approach by communities and individuals. The Commission recognises this and would wish to emphasise two important things.

Most obviously for participation to work people must participate. Throughout our work we heard real frustration from representatives and activists that being engaged and active is the exception rather than the rule in many communities. There was a worry that voices were only ever heard when a really major issue was current and that they were silent on the more day to day business of democratic involvement. There is no criticism here but a simple recognition that if public bodies open their procedures to be more inclusive , more engaged and more sensitive to community views, that only works if people chose to be active In addition it's important that communities understand that an offer of inclusion is not a guarantee that their particular view will prevail. The Commission encountered many instances where individuals and communities complained passionately that they had not been involved or listened to. These conversations and subsequent investigation sometimes showed a quite different picture namely that there had been considerable genuine involvement that resulted in a course of action that some activists did not agree with.

This will happen and in situations of competing resources, varying community views and many financial and legal constraints we charge our elected or appointed representatives with the job of making the best decision.

If local democracy is only judged to have been effective if communities always see their views translated into decisions and action then it will fall short on many occasions. Communities are asking that public bodies treat local democracy very seriously. In return community expectation should be both mature and realistic.

## **CONCLUSION**

This final interim report has tried to focus on the five or six major suggestions that the Commission would wish to make in response to communities evidence regarding the state of local democracy. There is much more detail contained within the full range of gathered evidence and there are many more discussions which the commission has had in considering that detail. To try and include proposals about the use of new technologies, social media and all of the issues relating to how we involve those furthest from the democratic process is a further major piece of work. These issues are all vitally important and the Commission has thoughts and ideas on them. However, until the basic framework of strategy development, local planning, an understanding of democratic responsibility and a better process of individual decision making are in place, it is unlikely that much progress on these more specific matters can be made. Following Highland Council's consideration of this report, the Commission will collate the detail of all the evidence and will engage with any of the agencies who wish to interrogate that evidence in more detail.