

The Highland Council

9 May 2013

Agenda Item	
Report No	

Comunn na Gaidhlig-Membership, Memorandum and Articles of Association

Report by the Director of Education, Culture and Sport

Summary

Comunn na Gaidhlig (CnaG) is a company limited by guarantee which was established in 1984 as a co-ordinating Gaelic development agency. The Highland Council is one of the 4 'Original Members' of CnaG along with Highlands and Islands Enterprise (HIE), An Comunn Gaidhealach (ACG) and Comhairle nan Eilean Siar. As a Member of the Company the Council is entitled to appoint a Director to the Company. The Council has been asked by the CnaG Board to consider a request to amend the Memorandum and Articles of Association following the recent resignations from membership of HIE and ACG. In light of the resignations and changes in the management and development of Gaelic issues since the establishment of CnaG the Council is invited to consider the Council's continuing membership of CnaG.

1. Background

- 1.1 CnaG is a company limited by guarantee that was established in 1984 to be a Gaelic development agency. The four Original Members of CnaG were Highland Regional Council (now Highland Council), Highlands and Islands Development Board (now HIE), ACG and Comhairle nan Eilean Siar. All four Original Members are entitled to appoint a director to CnaG and the Council's current Director is Councillor Hamish Fraser. Both HIE and ACG have recently intimated their respective intention to resign their membership of CnaG. In recent months the membership of CnaG has undergone significant diversification and the company now has members drawn from the business, community and youth spheres.
- 1.2 Following notice of the resignations the Board of CnaG reviewed its Memorandum and Articles of Association. On 18th March 2013 CnaG wrote to the Council and proposed a number of changes to update the company's proceedings which reflected the changes in membership. These amendments are summarised in Appendix One.

To effect the proposed amendments to the Memorandum and Articles of Association, a Special Resolution was prepared for signature by Members of the existing Board (in their capacity as Members of the Company) including by Highland Council as a Member of the Company. The proposed changes required the approval of 75% of the Members.

- 1.3 Previously where the Highland Council is a member of a company, Council has been asked to approve any amendment to the Articles of Association. There has been no opportunity to report these changes to a meeting of Highland Council before this meeting. The Council understands that the necessary majority of existing members has agreed to the amendments and the Special Resolution was made on 28th March 2013. However it is

considered important that the proposed changes be considered by members. It is suggested that it would not have been appropriate for the Council to agree to the deletion of Articles 76 and 77 which dealt with remuneration of directors nor to the amendment to Article 98 which would allow the Ceannard to become a director of the company.

The above comments are made as it is not common practice for remuneration to be given to directors in companies in which the Council participates as a member and the inclusion of the Ceannard as a director of the company could potentially lead to future conflict of interest.

It is recommended that the Council respond formally to CnaG to express these reservations.

2. Membership

- 2.1 The timing of the request that has been received from the Board of CnaG is opportune in that it affords the Council the opportunity to consider the nature and value of its membership.
- 2.2 There have been significant changes and improvements in the support afforded to the promotion of Gaelic in the thirty years since CnaG was established. The most obvious example has been the creation of Bord na Gaidhlig as a statutory body with duties to promote Gaelic. These duties have been supplemented by the statutory provisions of the Gaelic Language Act with the attendant responsibility on the Council and other public bodies to formulate and deliver Gaelic language plans.
- 2.3 The changes described above have contributed in part to the changing nature of the work undertaken and delivered by CnaG. The company has sought to embrace the changes by seeking to widen its objectives and membership. The membership of the company is now drawn from a range of backgrounds including business and community interests and it is believed that this reflects the future direction of the company.
- 2.4 The Council does not offer core funding to CnaG. The Council does work closely with CnaG on various initiatives such as community development and Cuach na Cloinne (national Gaelic Primary School Football Competition) and in 2012/13 and in 2013/14 the Council has agreed to offer funding to support CnaG to employ a part time development officer in Fort William. It is anticipated that the Council will continue to offer support, when possible, to such programmes.
- 2.5 In light of the above changes it does appear that the Council's continued membership is unnecessary and may no longer be consistent with the company's development plan.
- 2.6 The Company's Articles of Association allow any Member to resign on giving three months notice in writing to the Company.
- 2.7 Members are asked to note that the Council and CnaG will continue to work very effectively together to promote Gaelic activities.

3. Recommendations

3.1 Members are asked to :-

1. Agree that the Chief Executive or his nominee give notice to the Company of the Council's intention to resign its membership of Comunn na Gaidhlig.
2. Agree that the Council should write to the Ceannard of CnaG to express the reservations set out in paragraph 1.3 above in respect of the changes being made to the Company's memorandum and Articles of Association.

Designation:

Date:

Report Author:

APPENDIX ONE

SUMMARY OF PROPOSED AMENDMENTS TO MEMORANDUM AND ARTICLES OF ASSOCIATION

Memorandum

1. Paragraph 3 has been amended to separate the objects paragraph from the powers/activities.
2. Paragraph 7 has been amended to include reference to voluntary dissolution as well as the winding up or dissolution of the Company.

These changes were recommendations from Office Scottish Charities Regulator .

Articles of Association

1. The definition of 'Original Members' has been deleted and any reference to such members throughout the Articles has either been deleted or amended.
2. Article 27 has been amended through deletion of the requirement that the duly authorised representative of HIE must be present at any meeting at which any resolution to alter the Memorandum or Articles of association is proposed.
3. Articles 63 and 73 are amended to allow any individual who wishes to be considered for appointment as a director to lodge written notice of his willingness to be appointed. As previously worded CnaG was required to draw at least one director from each of the following categories:-
 - a. Business
 - b. Community
 - c. Arts/Culture
 - d. Youth
 - e. Such other categories as directors may determine

and such nominations were restricted to individuals falling within one of those categories.

4. Articles 76 and 77 have been deleted. Article 76 dealt with Directors' remuneration and provided that no directors was entitled to any remuneration from CnaG in respect of their office as director. Article 77 allowed directors to claim reimbursement of their reasonable travelling and other expenses to attend meetings. Original Members were required to meet the reasonable expenses of appointee directors' attendance at meetings.

The Board will now enjoy discretion, within OSCR regulations, to decide upon appropriate levels of remuneration, if any, and upon a scheme for reimbursement of expenses.

5. Article 98 has been amended to remove the restriction on the Ceannard or Chief Executive of CnaG from being a director of CnaG. Article 89 does provide that the Ceannard will be entitled to attend all meetings of the Board but shall not be entitled to vote at such meetings.