

Agenda Item	21
Report No	HC/32/19

HIGHLAND COUNCIL

Committee: The Highland Council

Date: 27 June 2019

Report Title: **Review of the Highland Scheme of Establishment for Community Councils 2018/19 – Phase 1 feedback**

Report By: Acting Head of Policy

1. Purpose/Executive Summary

1.1 Community Councils are created and governed through a Scheme of Establishment which is developed by each Local Authority. Local Authorities must periodically review the Scheme for their area. The Council agreed to review the Scheme in January 2019 and the first phase of consultation ran between March and May 2019.

1.2 This paper sets out the feedback received during phase one of the consultation, proposes changes to some of the proposals considered as part of that consultation and sets out a number of new proposals for a further and final round of consultation between July and August this year. Members will be asked to agree a new Scheme at a Special Council meeting proposed for early September, prior to the commencement of the elections scheduled for November.

2. Recommendations

2.1 Members are asked to:

- Note the feedback received during the phase 1 consultation as part of the review of the Community Council Scheme

Members are asked to agree the following proceed to phase 2 consultation:

- Revised phase 1 boundary proposals set out at 5.3;
- New boundary proposals received as part of phase 1 at 5.5;
- Recommendations for amending the existing Scheme proposals set out at paragraphs 5.9-5.12
- New proposals to amend the Scheme set out at 5.13.

3. Background and Process for Review

3.1 Community Councils are created and governed through a Scheme of Establishment which is developed by each Local Authority. The Highland Scheme is based on the Scottish Government model Scheme and sets out the parameters under which Community Councils are to operate. The current Scheme of Establishment for Highland came into effect in 2011, with a short review in 2013.

3.3 The process for any review of the Community Council Scheme is set out in section 53 of the 1973 Local Government (Scotland) Act. The Council is required to undertake a two-stage process:

- Stage 1 – the formal decision to review, and the outline proposals, need to be passed by not less than two-thirds of members voting at a special meeting of the Council convened specifically for that purpose. Public notice is then given of the intention to review along with details of the proposals, with Community Councils and the public invited to make representations regarding the proposals.

- Stage 2 - the Council will consider any representations made and may amend the scheme in accordance with:
 - the notified proposals; or
 - those proposals as amended to take account of any such representations.

Should the proposals be amended following representations received during stage 1, then further public notice shall be given and an opportunity for the public to comment on the amended proposals.

3.4 The current review of the Scheme has reached stage 2. The comments and representations received during phase 1 have been reviewed. Some of these proposals have now been amended and some further proposals have been received and have been proposed for proceeding to consultation. A further phase of consultation will therefore be required between July and the middle of August.

3.5 Following this last phase of consultation, the final decision to amend the Scheme needs to be passed by not less than two-thirds of members voting at a Special meeting of the Council convened for that purpose. It is proposed this Special meeting takes place in early September 2019.

4. Scheme Review Phase 1 Consultation Feedback

4.1 The first formal consultation phase of the review of the Scheme began on 1 March 2019 and ran until 31 May 2019. Promotion of this consultation went through our normal media channels, direct to Community Councils and through our partner/third sector networks.

4.2 There were 138 separate responses received on the proposals to amend the Scheme. These were received directly from Community Councils, from individual

Community Councillors and from individual members of the public. People could respond online, in paper or via email. A summary of responses can be found in table 1.

Table 1

Number of Responses	138	%
As Individual	44	32%
As Community Councillor	55	40%
On behalf of a Community Council	39	28%

4.3 The following summarises the feedback received as part of the consultation. This is divided into two sections:

- Reviewing the boundaries
 - Comments on existing proposals
 - Responses proposing new boundary changes
- Reviewing the Scheme
 - Comments on existing proposals
 - Comments proposing new changes

5. Reviewing the Boundaries

5.1 Any review of a Scheme provides the opportunity to review the boundaries of Community Councils and to consider whether these still make sense given changes in population.

5.2 *Comments on Existing Proposals*

Initial engagement with Community Council during 2018 resulted in a number of proposals regarding changes to boundaries. In the main these were small amendments to align geographies or settlements, although there were proposals received to merge two sets of Community Councils and also to split a further two Community Councils. These all were considered during phase 1 consultation.

5.3 Feedback on these proposals are summarised in appendix 2. Based upon the feedback received, the proposals are either:

- recommended to proceed to phase 2 (3 proposals);
- recommended to proceed to phase 2 as further engagement is required to establish a position (2 proposals);
- remove from the review as feedback has established there is no support for the proposal (7 proposals).

Table 2 below sets out the proposals recommended to proceed to phase 2 consultation.

Table 2:

Community Council:	Boundary Proposal:	Recommendation following Phase 1
Smithton & Culloden	Split into two new CCs	One member of the public expressing support. Proceed to phase 2.
Cradlehall and Westhill CC and Balloch CC	Amend north east boundary between Cradlehall and Westhill with Balloch	Agreed between two Community Councils. Further proposals noted below. Proceed to phase 2
Beaulay	Include The Braes to the north and Wyndhill to the east as these communities are both serviced from Beaulay and have active community members	Further work required with Muir of Ord and Kilmorack Community Councils to seek a solution. At present Kilmorack not in favour. Proceed to phase 2 for further engagement.
Fort William and Inverlochy & Torlundy	Combine Fort William and Inverlochy and Torlundy Community Councils	Support from both Community Councils. Proceed to phase 2
Mallaig	Split and form new CC in Inverie and Knoydart	No further views received. Proceed to phase 2 for further engagement.

5.4 Responses Proposing new Boundary Changes

A series of further proposals have been received during phase 1 consultation. These have been reviewed and assessed and where considered viable and with local support, have been proposed for further engagement. In addition, it was agreed at the Special Council meeting in January that a review of Inverness Community Council boundaries would take place. Members have reviewed boundaries and following informal engagement with affected Community Councils, these are also included for phase 2 consultation.

5.5 The full list of proposals received during phase one consultation can be found at appendix 3. These are recommended for:

- Proceeding to phase 2 consultation for further engagement - 4
- Not to proceed at current time – 5

Table 3 below sets out the proposals recommended to proceed to phase 2 consultation.

Table 3:

Community Councils:	Boundary Proposal:	Recommendation following Phase 1
Dores and Essich and Holm	Received from Dores and Essich following engagement with neighbouring Community Councils Boundary between Dores and Holm to be redrawn to reflect housing development.	Community Councils engaging with affected residents direct. Proceed to phase 2 consultation.
Balloch and Smithton and Culloden	Proposal from Balloch to extend at Balloch Farm and take into account development.	Local support and logical proposals to align communities given new development. Proceed to phase 2 consultation.
Balloch, Cradlehall and Westhill, Croy and Strathnairn	Proposal from Balloch Community Council to further extend at Viewhill. Further proposals to amend boundaries from local Members: Parts of Culloden Moor from Strathnairn to Croy and Culloden Moor, Nairnside up to Clava from Strathnairn to Cradlehall and Westhill.	Engagement with Community Councils suggests support for proposals. Proceed to phase 2 consultation.
Inverness South	Proposal from Members to split Inverness South Community Council into Inshes and Milton and Leys and Slackbuie Community Councils	Following discussion with existing Community Council, feasibility on a Slackbuie Community Council needed. Proceed to phase 2 consultation.

Maps illustrating these changes can be found on the Council's website at www.highland.gov.uk/schemereview

5.6 Reviewing the Scheme – Comments on existing proposals

Proposals to amend the Community Council Scheme were considered under four key headings:

- Membership
- Elections
- Code of Conduct/Complaints Procedure
- Finance

Feedback from Community Councils and the wider community were sought on these specific proposals but also general comments or suggestions for further changes and amendments.

5.7 Not all of the 138 respondents provided direct comments on the proposals to amend the Scheme. 80 respondents provided views on the Scheme proposals, with 78% of these indicating that they supported all the proposals put forward.

5.8 The following sets out the feedback received on each of the main proposals to amend the Scheme and based on that feedback, the recommendation for phase 2 consultation.

5.9 **Membership**

One of the challenges facing Community Councils is around membership levels. A series of proposals were considered during phase one to assist Community Councils to be sustainable and continue operating should they lose members.

Table 4:

Proposal	Consultation Feedback	Recommendation
<u>Moving outwith the area:</u> enabling a member (elected or co-opted) to continue on the CC until the next round of interim elections. (Scheme 6.1.3, 11.1)	Overall support however a small number of comments suggesting this is not practical and membership should cease on leaving the area.	Retain as proposal. Recognition that not applicable in all circumstances but could help CCs to operate until next election.
<u>Co-opted members and abeyance:</u> enable Community Councils to continue to operate until the next set of interim elections as long as quorum is still met. (Scheme 6.2.6).	Support for this proposal	Retain as proposal.
<u>Increasing co-option:</u> allow Community Councils to co-opt up to their total membership number, but with a maximum of 4 co-opted members. This ensures the balance would remain in favour of elected members. (Scheme 6.2.6, 6.3 Const. 7.1)	Overall support however some concerns that will dilute membership. Balance must remain with elected Community Councillors	Retain as proposal with amendment. Clarification that half of membership must be elected therefore retaining balance in favour of elected.
<u>Associate Membership:</u> Community Councils should consider at their first meeting which local groups they may wish to consider offering associate membership status. (Scheme 5.2 Standing Orders 4.1)	General support for proposal. No specific comments received.	Retain as proposal.
<u>Youth Membership:</u> allow two additional places for 14-18 year olds with full voting rights, with the exception of co-option. These youth places will not count towards the total established membership of the Community Council. (Scheme 5.7)	Overall support for trying to encourage youth membership. However, concerns regarding 14/15 year olds' financial responsibility and child protection matters. Noted that youth members should reside within the CC area. One suggestion should only be as associate member with no voting rights – however does not reflect support for change from CCs. Range of suggestions regarding timing of membership – no conclusive suggestions.	Retain as proposal with amendment. Taking into account the concerns noted, retain principle of youth members, with full voting rights, but noting the need to live in CC area and revising to 16-18 year olds.

5.10 **Elections**

A number of representations were received during phase 1 regarding the proposal to allow for an electronic ballot, should the technology become available. Concerns were expressed regarding the accessibility of this for certain members of the population and to ensure that the appropriate security measures would be in place. It is therefore proposed to amend the wording to clarify the intention regarding this.

Table 5:

Proposal	Consultation Feedback	Recommendation
<u>Electronic Ballot:</u> to enable elections to be carried out by electronic ballot should this technology be available and cost effective. (Scheme 6.2.5)	Concerns expressed regarding sole use of electronic ballot and also security.	Retain as proposal with amendment. Clarification required that not sole method of election and that appropriate security in place prior to use.

5.11 **Code of Conduct**

Representations to the consultation continued to express support for an enforceable Code of Conduct with sanctions attached. Although not something that can be progressed under the current legislative framework, strengthening responsibilities under the code was proposed as part of the changes to the Scheme. Moving forward, and based on the feedback received, it is also suggested that a complaints process be developed, in conjunction with Community Councils, to enable them to deal with complaints both internally and from members of the public. This will not be a process with formal sanctions attached but instead a process to support Community Councils to respond to complaints.

Table 6:

Proposal	Consultation Feedback	Recommendation
<u>Code of Conduct</u> include recording declaration of interests alongside membership present and apologies received. (Standing Orders 4.1)	Support for proposal. In the main, representations relating to this express support for an enforceable code. A number of comments noting the importance of a complaints procedure.	Retain as proposal. In addition, a complaints procedure developed for managing complaints. (Scheme 3.4)

5.12 **Finance**

The main proposal under finance was to amend the formula for distributing the Community Council grant to a core amount for all Community Councils plus an additional allowance for rural Community Councils, on the basis of additional expenses often incurred in rural areas. This change was based on feedback from Community Councils during engagement in 2018. There were few comments received directly on the proposed change in formula, although one did note that any rural addition should be based on evidence and not automatic.

There were however a number of general comments on the grant, expressing concern regarding recent reductions, that it did not cover all administrative expenses and the impact this has had on the operation of Community Councils. As noted in the January Council report, following approval of the new Scheme in September, it is proposed there is separate engagement with Community Councils on the distribution of the Community Council grant. Any changes would then be introduced in April 2020.

Table 7:

Proposal	Consultation Feedback	Recommendation
<u>Financial Formula</u> Amending the formula to be a core grant, with an additional amount for Community Councils serving rural communities. (Scheme 9.6)	Overall support. Few direct comments on the proposed formula.	Retain as proposal.
<u>Financial statement:</u> remove the statement from the Scheme to enable greater flexibility for amendment.	Some concern at removal of statement due to the importance of clarity regarding reporting responsibilities.	Retain as proposal but with amendment. Clarification in Scheme regarding any proposal to amend must include engagement with CCs. (Scheme 3.2)

5.13 Reviewing the Scheme – Representations proposing new changes

A series of additional proposals were received as part of the phase one consultation. These have been reviewed, assessed and discussed with the Community Council Steering Group. Those not recommended to proceed included:

- changing the term of office for Community Councils and extending membership to those working in the area – both previously discussed with Community Councils and discounted;
- holding elections for every vacant place at each interim election – administratively and financially challenging;
- disbanding Community Councils or disqualifying members more quickly due to inactivity – focus is on encouraging Community Councils to operate;
- stronger enforcement of Scheme requirements – whilst Community Councils are statutory bodies and need to comply with the Scheme, they are volunteers and should be supported to operate.

The following are proposed for inclusion in the phase 2 consultation:

Table 8:

Proposal	Recommendation
<u>Publicising interim elections:</u> proposal that dates for interim elections should be publicised and notified to Community Councils at the start of the year.	New proposal for phase 2. (Scheme 6.2.6)
<u>Complaints process:</u> develop a complaints process for Community Councils on how to manage complaints from members and the public.	New proposal for phase 2. (Scheme 3.4) Reference in new Scheme but develop along with Community Councils
<u>Financial reporting:</u> to support greater financial oversight, a written financial statement, including the current balance to be provided at each CC meeting	New proposal for phase 2. (Scheme 3.2 Const. 14.1 c)
<u>Promotion and engagement:</u> to have a clearer definition and requirement of promotion and engagement. Require CCs to have a social media/virtual presence.	New proposal for phase 2. Revised definition regarding promotion within the scheme however options rather than required approaches. Flexibility for CCs important. (Scheme 3.1, 3.2, 3.4) Const. 12.1c
<u>Clarification of remit of sub-committees:</u> to ensure remit of sub-committees is established.	New proposal for phase 2. (Const. 10.1) (Standing Orders 8.1)

5.14 **General Feedback**

A number of general comments and points were received as part of the Scheme consultation. This included the importance of developing a rolling training programme to support Community Councils in their roles and clarity regarding the support Community Councils can receive from the Council, including a named officer.

5.15 Several responses from Community Councils and individual Community Councillors highlighted the importance of the relationship and communication between the Council and Community Councils. Changing the nature of the relationship was regarded as important and a number of comments reflected the feedback from the initial engagement and network meeting. The importance of clarifying lines of communication were considered important and ensuring that Community Councils were responded to and kept informed regarding key Council business. Further feedback requested greater clarity in how Community Council views are taken into account.

5.16 This builds on the more detailed feedback received from Community Councils during the engagement process in 2018 and reported to Council in January. The following work to take this forward has already begun:

- Governance review – as part of the discussions on governance with local members, consideration has been given how best involve, include and engage Community Councils, and other community groups, locally in Council

business. Work to progress this will be taken forward within each local committee area under the new area structure.

- Working Together: Principles and Practice – led by the Community Council Steering Group, a piece of work will begin immediately following the agreement of the Scheme to establish a shared set of principles and working practice between the Council and Community Councils. Community Councils have been clear regarding the importance of establishing the nature of the relationship between the two sets of bodies and setting out shared expectations and responsibilities. Whilst the Scheme is a legislative requirement to set out the operating parameters of Community Councils, the terms of engagement will set out how the Council and Community Councils will work together.

6. Next Steps

- 6.1 Members are being asked today to agree to a series of proposals to progress to phase 2 consultation as part of the review of the Community Council Scheme. These proposals include revisions to the phase 1 boundary proposals, a series of further boundary proposals, revisions to existing proposals to the Scheme and several new proposals to amend the Scheme. All proposals and revisions are set out in the Scheme document found at appendix 1 and circulated separately.
- 6.2 Further to agreement today, these proposals will be subject to public consultation from 28 June until the middle of August 2019. Representations will again be reviewed by the Community Council Steering Group and a final set of proposals will be considered at a Special Council meeting proposed for early September.

7. Implications

- 7.1 Resource – the current Scheme is being reviewed within existing resources. There are no additional resources to support any new or additional activity. The budget for administrative grants to Community Councils is £88,000 – this is the reduced amount following the budget setting process for 2018/19.
- 7.2 Legal – The Council has a legal duty to periodically review the Scheme of Establishment for Community Councils and the current Scheme commits the Council to doing this within each Local Government cycle.
- 7.3 Community (Equality, Poverty and Rural) – Part of the proposed amendments to the Scheme considers how to improve youth engagement within Community Councils. Initial engagement with Community Councils has also considered how to support and sustain smaller Community Councils in rural communities. The draft Scheme will be subject to an assessment of community impacts prior to finalising.
- 7.4 Climate Change / Carbon Clever – there are no direct implications as a result of this report.
- 7.5 Risk – The Council is required to review the Community Council Scheme within each

Local Government cycle.

7.6 Gaelic – there are no direct implications as a result of this report.

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Date: 15 June 2019

Background papers:

Appendix 1:

2018/19 Review: Highland Scheme of Establishment for Community Councils
– Consultation Version Phase 2

Appendix 2:

2018/19 Review: Summary of responses to existing boundary proposals and
recommendations

Appendix 3:

2018/19 Scheme Review: Summary of new boundary changes proposed and
recommendations

Scheme of Establishment Document for Review – circulated separately

Summary of responses to existing boundary proposals and recommendations

Community Council:	Boundary Proposal:	Recommendation following Phase 1
Smithton & Culloden	Split into two new Community Councils	One member of the public expressing support. Proceed to phase 2.
Cradlehall and Westhill CC and Balloch CC	Amend north east boundary between Cradlehall and Westhill with Balloch	Agreed between two Community Councils. Further proposals noted below. Proceed to phase 2
Beauly	Include The Braes to the north and Wyndhill to the east as these communities are both serviced from Beauly and have active community members	Further work required with Muir of Ord and Kilmorack Community Councils to seek a solution. At present Kilmorack not in favour. Proceed to phase 2 for further engagement.
Sinclairs Bay	Move Staxigoe and Papigoe to Wick	Review undertaken as agreed at Council on 16 January. No local support for proposals. Remove from Scheme Review.
Sinclairs Bay	Combine remaining part with part of Dunnet & Canisbay to the east of ward boundary	Review undertaken as agreed at Council on 16 January. No local support for proposals. Remove from Scheme Review.
Dunnet & Canisbay	Section in Wick Ward to combine with Sinclairs Bay	Review undertaken as agreed at Council on 16 January. No local support for proposals. Remove from Scheme Review.
Dunnet & Canisbay	Section in in Thurso Ward to combine with Castletown and Bower	Review undertaken as agreed at Council on 16 January. No local support for proposals. Remove from Scheme Review.
Castletown	Combine with Bower and the West of Dunnet and Canisbay	Review undertaken as agreed at Council on 16 January. No local support for proposals. Remove from Scheme Review.
Bower	Combine with Castletown and the West of Dunnet and Canisbay	Review undertaken as agreed at Council on 16 January. No local support for proposals. Remove from Scheme Review.
Fort William and Inverlochy & Torlundy	Combine Fort William and Inverlochy and Torlundy community Councils	Support from both Community Councils. Proceed to phase 2
Mallaig	Split and form new Community Council in Inverie and Knoydart	No further views received. Proceed to phase 2 for further engagement.
Sheildaig	Merge with Torridon and Kinlochewe	Agreement from two Community Councils not to proceed. Remove from Scheme Review

Summary of new boundary changes proposed and recommendations

Community Councils:	Boundary Proposal:	Recommendation following Phase 1
Tongue, Melness and Skerray	Received from 2 individuals. A single community council for Melness.	Would leave a very small and potentially unviable Community Council. Current CC not at full complement and Melness represented on the CC. Decision: not to proceed at current time.
Dores and Essich and Holm	Received from Dores and Essich following engagement with neighbouring Community Councils Boundary between Dores and Holm to be redrawn to reflect housing development.	Community Councils engaging with affected residents direct. Proceed to phase 2 consultation.
Sinclair's Bay	Proposed by two Community Councillors. To extend boundary to encompass Auckengill and Freswick.	Feedback from Community Council suggests that with development of local Trust, they would prefer not to proceed with this proposal at the current time. Decision: not to proceed at current time.
Rogart	Received from an individual. Expanding to include the settlements of Balnacoil and Ascoil.	Communities naturally identify with Brora – previous Chair having come from there. Decision: not to proceed at current time.
Nairn Suburban and Nairn River	Proposed by Nairn West and Suburban. Proposal to merge the two town Community Councils in Nairn.	Some level of support however one Community Council currently in abeyance therefore not appropriate to proceed at current time. This can be revisited in 2020 should there be local support to do this. Decision: not to proceed at current time.
Balloch and Smithton and Culloden	Proposal from Balloch to extend at Balloch Farm and take into account development.	Local support and logical proposals to align communities given new development. Proceed to phase 2 consultation.
Balloch, Cradlehall and Westhill, Croy and Strathnairn	Proposal from Balloch Community Council to further extend at Viewhill. Further proposals to amend boundaries from local Members: Parts of Culloden Moor from Strathnairn to Croy and Culloden Moor, Nairnside up to Clava from Strathnairn to Cradlehall and Westhill.	Engagement with Community Councils suggests support for proposals. Proceed to phase 2 consultation.
Inverness South	Proposal from Members to split Inverness South Community Council into Inshes and Milton and Leys and Slackbuie Community Councils	Following discussion with existing Community Council, feasibility on a Slackbuie Community Council needed. Proceed to phase 2 consultation.