

Agenda Item	<b>15</b>
Report No	<b>HC/34/23</b>

## THE HIGHLAND COUNCIL

**Committee:** Highland Council

**Date:** 14 September 2023

**Report Title:** Scottish Government Consultation – Mandatory Training on Planning for Elected Members

**Report By:** Interim Depute Chief Executive

### 1. Purpose/Executive Summary

- 1.1 The report
- (i) informs Members about the current Scottish Government consultation on making planning training mandatory for elected Members;
  - (ii) sets out the various options under consideration by the Scottish Government by way of which mandatory training on planning is proposed to be delivered; and
  - (iii) seeks approval of the suggested consultation response contained in **Appendix 1** to this report.

### 2. Recommendations

- 2.1 Members are asked to:
- (i) **NOTE** the mandatory training options available; and
  - (ii) **AGREE** the suggested consultation response contained in **Appendix 1** to this report for submission to the Scottish Government.

### 3. Implications

- 3.1 Resource – Depending on the training options decided upon by the Scottish Government, staff may be required to develop and deliver the mandatory training. It will require dedicated staff time and input from a range of Council Services, including Planning and Legal.
- 3.2 Legal - There are no direct legal implications arising from the report. The Council already requires Members involved in the determination of planning applications to undertake mandatory training.
- 3.3 Community (Equality, Poverty, Rural and Island)

- 3.3.1 An Equality Impact Screening Assessment that considers the impact of the draft proposals on various equality groups defined by protected characteristics such as age, sex, religious or other belief, race or sexual orientation has been undertaken by the Scottish Government. The initial conclusion following a screening of proposals is that a full assessment is not required (see Annex D of the Consultation).
- 3.3.2 An Island Communities Impact Screening Assessment that considers the impact of proposed changes on Scotland's Islands has been undertaken by the Scottish Government. The initial conclusion following a screening of proposals is that a full assessment is not required (see Annex F of the Consultation).
- 3.4 Climate Change / Carbon Clever - There are no direct implications arising from the proposals in this report.
- 3.5 Risk - A failure to follow appropriate governance and scrutiny in making decisions at Committee and Council presents potentially significant legal, financial, and reputational risks for the Council. Mandatory training seeks to mitigate these risks.
- 3.6 Gaelic - There are no direct implications for the Gaelic language arising from this report.

#### **4. Legal Basis and Current Practice**

- 4.1 Mandatory training for elected Members was included in the Planning (Scotland) Act 2019, alongside a package of measures to improve the performance of the planning system as a whole. Section 45 of the Planning (Scotland) Act 2019, once in force, will prohibit elected Members from carrying out certain specified planning functions if they have not completed training specified by Scottish Ministers.
- 4.2 The Council already requires Members involved in the determination of planning applications to undertake mandatory training. In 2022 this training was made available online via the Members' Internet page: [https://www.highland.gov.uk/membersintranet/info/3/protocols\\_and\\_guidance/13/the\\_planning\\_system](https://www.highland.gov.uk/membersintranet/info/3/protocols_and_guidance/13/the_planning_system). The Council's training covers development plans, development management, enforcement, listed buildings, conservation areas and reviews and appeals. Guidance is also provided on the Council's scheme of Delegation and the processes followed at Planning Application Committees. Additional mandatory training is provided to Members appointed to the Council's Planning Review Body.

#### **5. The Consultation**

- 5.1 The Scottish Government is consulting on making training for elected members involved in planning decisions mandatory. The consultation, which closes on 26 October 2023 may be accessed via the following link: - [Mandatory training on planning for elected members - Scottish Government consultations - Citizen Space](#)
- 5.2 The Consultation recognises that elected Members have a crucial role in the decision-making process within the planning system, a vital part of the democratic process by carrying out specific planning functions including the determination of certain planning applications. It notes that elected Members do not necessarily have a planning background and it is vital that adequate training is provided to ensure that elected members have the knowledge and understanding to help them make decisions that are robust and sound. It is suggested the implementation of elected

member training will benefit the wider planning system by giving those involved in the decision-making process an increased understanding of their role. This could in turn contribute to ensuring planning decisions across Scotland are made on a consistent basis which is robust and grounded in an understanding of relevant planning principles, policies and legislation.

- 5.3 The consultation continues that the planning system supports the delivery of a range of cross-cutting objectives to deliver the Strategic Priorities and Outcomes contained within the National Performance Framework. The recently adopted National Planning Framework 4 (NPF4), which is part of the statutory development plan, sets out national planning policies, designates national developments, highlights regional spatial priorities and places National Outcomes at its centre. NPF4 highlights that planning has a unique role in contributing to all of the National Outcomes. The consultation indicates that the introduction of mandatory training for elected members will help deliver these ambitions.

## 6. The Council's Response

- 6.1 As noted above, the Council already requires those elected Members who are engaged in planning decisions to undertake planning training. Additional training is required of those Members who undertake the appellate function offered by the Planning Review Body.
- 6.2 It is considered that many of the proposals within the Consultation would make a positive contribution and, support from the Scottish Government in securing a national framework would be welcomed. There will continue to be a need to offer supplementary and bespoke sessions for Members locally.
- 6.3 A proposed response to the consultation is attached as **Appendix 1** for Members' consideration and approval.

Designation: Interim Depute Chief Executive

Date: 5 September 2023

Author: Karen Lyons, Principal Solicitor (Planning)

Background Papers: Mandatory Training on Planning for Elected Members, Scottish

Government Consultation, July 2023 <https://consult.gov.scot/local-government-and-communities/mandatory-training-for-elected-members/>

**Appendix 1:** Suggested response to the Consultation

## APPENDIX 1

### Suggested response to Scottish Government Consultation - Mandatory Training on Planning for Elected Members

**Question 1:** Should the determination of planning applications be the only specified function that elected members are prohibited from doing until training requirements have been completed? [No]

Please add any comment in support of your answer - until mandatory training requirements are complete, it is recommended that Members do not participate in the notification process allowing an application to be called in to committee.

**Question 2:** Should the training requirements vary for elected members depending on whether they participate in a planning committee, Full Council or Local Review Body? [Yes]

Please add any comment in support of your answer – it is recommended that all Members received the same mandatory training on the planning system and that there is specific additional mandatory training for Review Body members given that they are exercising an appellate function with limited further challenge by applicants.

**Question 3:** Should the mandatory training be focused on the key principles and knowledge of the planning system? [Yes]

Please add any comment in support of your answer – the mandatory training needs to be engaging on the key principles and encourage further exploration of the documents concerned.

**Question 4:** Do you agree with the list of topics to cover? [Yes]

Importance of a plan led system: • Overview of the legal framework • Development plan at a national and local level • Regional Spatial Strategies and Local Place Plans • Planning policy and guidance • Wider strategic landscape including the National Performance Framework and UN Strategic Development Goals

Planning application process: • Types of planning applications and consents and the different considerations and processes • Hierarchy of development and differences between national, major and local developments • Overview of the process prior to elected members involvement which includes pre-application consultation, pre-application discussions, validation, fees, consultation, engagement, technical assessments and site visits • Schemes of delegation

Decision making at committee: • Overview of the information likely to be contained in committee reports • How to identify planning considerations by understanding what are material considerations and how they should be treated • How to consider stakeholder and community views • How to take a decision and provide robust reasons for decision • Use of conditions to ensure they are exercised in a fair, reasonable and practical way

Role of elected members: • Conduct and behaviour • Understanding at what stage in the process they can talk to planning officers, applicants and communities

Post decision: • Dispensing conditions • Legal agreements i.e. planning obligations • Appeals process • The functions and processes of Local Review Bodies

Please add any comment in support of your answer –

The role of statutory consultees, community councils and other should be set out clearly

**Question 5:** Are there any other topics that you think should be covered in the mandatory training?

Enforcement

**Question 6:** Which would be your preferred option for how the training could be delivered? (please check all that apply)

- Option 1 - Training could be delivered in-person with the Scottish Government setting out the overarching key principles which the training should cover and it would then be up to each local authority to develop the detailed content and deliver the training.
- Option 2 - Training could be delivered in-person with the Scottish Government developing the mandatory training programme and the detailed content, with each Local Authority delivering the training to the elected members in-person.
- Option 3 - Training could be delivered online with the Scottish Government developing (or procuring) an online training course for elected members to access individually at a time that suits them.
- Option 4 - Training could be delivered online with the Scottish Government undertaking a procurement exercise where a preferred training provider is chosen with local authorities then being required to appoint this person to facilitate the training online to their elected members.
- None of the above

Please add any comment in support of your answer – Option 3 with the Scottish Government procuring the online training course from an approved provider. Online modules on the individual topics could encourage elected member engagement in undertaking the training in more convenient modules. It is likely that the Council would continue to offer a session with officers where members would have an opportunity to discuss and submit any questions they may have following completion of the online element.

**Question 7:** Do you have any further comments on how the training could be delivered? -

**Question 8:** Should there be a requirement for elected members to have passed a test before being allowed to undertake a planning decision? [Yes]

Please add any comment in support of your answer –

A multiple-choice form of test would reinforce the key learning outcomes contained in the mandatory training.

**Question 9:** How often should elected members be required to retake the training?

Please tick

- once every year
- once every election cycle
- training should not need to be retaken

- Other

Please add any comment in support of your answer –

In addition, mandatory training would also be beneficial following the introduction of any significant new/revised policy or plan.

**Question 10:** Should elected member's completion of the training be made available to the public? [Yes]

Please add any comment in support of your answer –

The additional transparency this may increase public confidence in the decision-making process.

**Question 11:** If the completion of training is made public, do you think the information being provided within PPF / statutory annual reports and on the Local Authorities website are sufficient? [Yes]

If no, where should the information also be made available? N/A

**Question 12:** Do you have any comments / suggestions on the best ways to monitor the long term effects of the mandatory training of elected members?

**Question 13:** Do you have any comments on the impact assessments undertaken as part of the consultation on mandatory training on planning for elected members?