

REPORT TO ABERDEENSHIRE COUNCIL – 17 JANUARY 2019

PROPOSED RESPONSE TO LOCAL GOVERNANCE REVIEW

1. Recommendation

The Council is recommended to:

- 1.1 Consider and approve the Aberdeenshire Council Local Governance Review response attached as Appendix 4; and
- 1.2 Agree consultation to be undertaken with Area and Policy Committees during further stages of the Review

2. Discussion

Context

- 2.1 The Scottish Government's Programme for Government 2017-18 (September 2017) set out an intention to "decentralise power to a more local level in Scotland and launch a comprehensive review of local governance ahead of a Local Democracy Bill later in this Parliament".
- 2.2 In December 2017 the Scottish Government and COSLA jointly launched a Local Governance Review (Review) with the aim of ensuring local communities can have more say about how public services in their area are run.
- 2.3 Strand 1 of the Review was launched in May 2018. This strand focused specifically on engaging with communities and was framed as a conversation with the theme 'Democracy Matters – your community, your ideas, your future'. Communities and individuals were encouraged to participate online or at face to face events. Strand 1 completed on 30 November 2018.
- 2.4 Several 'Democracy Matters' conversations took place across Aberdeenshire facilitated by the Rural Partnerships. Conversations were encouraged with both communities of geography and interest, including those with protected characteristics (older, younger, disability, race). In summary, there is significant support for greater involvement in, and having more control over, decision making. For many community groups this was described as having a voice that is heard, trusted and acted upon. Community Councils were generally seen as having potential to enable more local decision making and control but recognition that community councillors are volunteers and not always representative of communities because it was difficult to encourage participation. There is also general agreement that having control over budgets and financial decision-making is essential if local democracy is to become a reality.

- 2.5 Appendix 1 summarises other responses to Strand 1 of the review compiled by national organisations representing or supporting communities.
- 2.6 The second engagement strand of the Review was launched on 22 June 2018 in a letter from Angela Constance MSP, John Swinney MSP and COSLA President Cllr. Alison Evison to public sector leaders. Strand 2 had a broad scope, allowing public services to offer proposals for improved governance arrangements at their level of place based on an acceptance of increased variation in decision-making arrangements across the country: what is right for one place will not necessarily be right for another.
- 2.7 When considering a response to the engagement, public sector leaders were asked to consider the National Performance Framework (revised in June 2018) which has a specific intention to tackle inequalities and drive inclusive growth, the Christie Commission principles and the aspiration to strengthen local decision making. Through COSLA, Council Leaders agreed to respond to strand 2 of the Review as individual councils and to create a common view around key themes emanating from individual authorities' local 'asks', and national aspects of reform such as fiscal empowerment, powers and other issues.
- 2.8 Strand 2 was run in parallel with strand 1 and was completed on 14 December. However, councils had an opportunity to extend their response beyond this date and officers have confirmed with COSLA and Scottish Government that a response will be submitted after Full Council on 17th January 2019.
- 2.9 Joint oversight for the Local Governance Review overall is provided by the Cabinet Sub-Committee on Public Service Reform Delivery and COSLA's Political Leadership Team.

Early Position

- 2.10 In June 2018, COSLA appointed Professor James Mitchell, Chair in Public Policy at Edinburgh University to facilitate Local Government's input to strand 2 of the Review, hold discussions and collate ideas and information. As part of his initial scoping of the approach to support councils' input into the review, Professor Mitchell asked for an early position statement from councils and information on key themes, issues and current practice.
- 2.11 The officer position on reform was stated as:

'Through our governance approach we already keep decision making as close to communities as practicable to increase accountability and transparency and our communities have a range of ways to participate in decision making across Aberdeenshire and can do so in a way that fits with their interest, capacity and capability.'

Evidence to support the position was provided and is attached as Appendix 2.

2.12 As the engagement strands of the review end, COSLA has given early indications of the proposals and themes that different groupings are developing, and an initial set of key themes have been agreed by COSLA Leaders and Cabinet Sub Committee, included as Appendix 3, and in summary these are:

- **Asymmetric” and “Permissive” approaches to governance**
Recognising the diversity of communities and the importance of ensuring that public services can meet that diversity. Reform should support enabling/permissive legislation which could create the conditions and capabilities to provide locally sensitive services.
- **Collaboration and Integration across public services and councils**
- **Subsidiarity, Empowerment and Participation**
Rebalancing the relationship between national and local government and communities with a need to push down power and resources beyond local government to communities. Opportunities for greater local democratic control of other public services beyond local government and the roles, functions and capabilities of Area Committees within local government and Community Planning Partners and addressing the roles for Community Councils.
- **Scale**
Developing public services at the right scale, for example in relation to regional collaborations, existing council or CPP levels, and community level.
- **Fiscal Empowerment**
Greater financial autonomy over the resources available to provide services and opportunities such as budget sharing within CPPs.

2.13 Officers and Members attended a COSLA workshop on 18th December 2018 which allowed for further consideration of the themes and development of the proposed Aberdeenshire Council response to the review.

Proposed Response

2.14 The proposed response by Aberdeenshire Council is attached as Appendix 4 and Council is asked to comment, amend and approve a final response to Strand 2 of the Local Governance Review.

Next Steps

2.15 COSLA’s draft submission, based on the responses from individual councils and the workshops taking place in December, will be shared with Leaders in January.

2.16 The engagement strands of the Review will inform a programme of changes to governance arrangements in different places where these can increase the pace and scale of public service reform, focus on shared outcomes, and strengthen local decision making. In the event of legislative change being required a Local Democracy Bill is provisionally scheduled for introduction later this parliament. The Programme for Government 2018-19 (September

2018) confirmed the commitment that “findings from the Review will be used to put in place new governance arrangements, and where legislation is needed, we will deliver these through a Local Democracy Bill.” This Bill is still provisionally scheduled for introduction later in this parliament.

- 2.17 The Scottish Government has also committed to further public consultation on any new laws that are required, most likely in 2019. It is proposed that Area and Policy Committees should be involved in any future consultation exercises which further inform the Local Governance Review or subsequent proposed legislation.
- 2.18 The Head of Finance and Monitoring Officer within Business Services have been consulted in the preparation of this report and their comments incorporated.

3 Scheme of Governance

- 3.1 Council is able to consider and take a decision on this item in terms of Section A.9.1 of the List of Committee Powers in Part 2A of the Scheme of Governance as it relates to the approval of a Council response to any external consultation that has not been properly delegated to any other Committee.

4 Implications and Risk

- 4.1 An equality impact assessment is not required because the report is to inform committee on the proposed response to a consultation which at this early stage has no differential impact on people with protected characteristics. An Equality Impact Assessment may be required if there is further public consultation on the outcome of the review.
- 4.2 There are no direct financial, staffing or Town Centre First Principle implications arising from this report.
- 4.3 The following Risks have been identified as relevant to this matter on a Corporate Level:

ACORP002 Changes in government policy, legislation and regulation (including Education reforms and potential impact on integration of children's services)

Ritchie Johnson

Director of Business Services

Report prepared by: Amanda Roe, Service Manager (Policy, Performance & Improvement) and Geraldine Fraser, Legal Services Manager

3 January 2019

LocalGovernanceReviewProposedResponseFullCouncilJanuary2019FINAL.doc

Appendix 1

Local Governance Review – Strand 1 Engagement

Example Community Responses

The Scottish ‘think and do tank’ Common Weal has submitted a response to the Review proposing a new tier of local democracy at the community level. The size and shape of each new democratic area, known as a development Council, would be defined by communities themselves through a participatory process. There would be no reorganisation of existing bureaucracies and existing local authorities would become Regional Councils. Regional Councils would continue to manage and deliver public services on behalf of both themselves and the Development Councils with a system of reserved powers. Development Councils would have substantial autonomous budgets to give them the capacity to deliver the work programmes they develop including setting up a Town Managers Officer to manage this. These would be delivered through a mixed model which would include working with the Regional Councils, local voluntary organisations, social enterprises, development trusts and local businesses.

The Scottish Community Development Centre (SCDC) has submitted several recommendations in response to strand 1 of the Review including:

- Measures to strengthen participation requests and the duties on community planning within the Community Empowerment (Scotland) Act.
- Legislating for 1% plus for all public budgets to be decided through participatory budgeting processes.
- Ensuring that existing community organisations with a democratic role (Community Councils), or any new structure which is developed, are subject to competitive election and are required to meet the duties of current and developing equalities and human rights laws.
- Recognising the alignment of the new proposals on local governance with proposed planning legislation - in particular, for community-led action plans and local place plans to become one and the same thing and to act as a formal and democratic expression of community views and aspirations.
- Giving consideration to awarding community-led action plans more status within statutory planning processes and spatial planning, i.e., legislating for public services to respond to community-led planning processes rather than the other way around.
- Practical support and other measures to enable participation, including time-off work, expenses, education and protection for volunteers so that benefits aren't affected.
- Exploring models to increase participation in democratic processes through sortition, for example, citizen's juries and assemblies.

Appendix 2

Local Governance Review – Initial Scoping

Examples of current position (June 2018):

Governance

Council:

- Scheme of Governance agreed January 2017 continued to recognise the criticality of decision-making as close to communities as practicable.
- Six Area Committees have a range of delegated powers in relation to:
 - Administrative and General
 - Common Good and Trusts
 - Community Councils
 - Community Planning
 - Education
 - Finance and Procurement
 - Leisure Services
 - Licensing
 - Planning
 - Property
 - Roads
 - Scrutiny
 - Trading Standards
- Area Committees have a budget (currently £100,000 per Area) that can be used to respond to local needs supporting community-based projects. Projects should be in line with the aims of the council and Community Planning Partnership and promote social and economic development, including:
 - Improving towns and villages
 - Community Action Plans
 - A Town Centre First approach
 - The Local Community Plan
 - Promoting resilient communities, wellbeing, and tackling inequality
 - The development of services for young people
 - Projects which are supported by a community organisation for the benefit of the wider community
 - The Community Empowerment (Scotland) Act 2015 – in support of producing business plans; feasibility studies etc
- The cost of supporting our democratic core was £40,273 per 1,000 of the Aberdeenshire population compared to £29,558 on average across Scotland. The higher costs are in part attributable to the decentralised

governance arrangements
(<http://www.improvementservice.org.uk/benchmarking/tool.html>)

Community Planning Partnership:

- Review of CPP organisational structure agreed in September 2017 - streamlined set of arrangements focusing on delivery of the Aberdeenshire Local Outcomes Improvement Plan and delivery of locality planning arrangements initially in three localities (Peterhead, Fraserburgh and Banff & Macduff)
- Board is explicit in its commitment to adding value to the day to day partnership arrangements that underpin day to day service delivery and reducing the inequality gap within communities
- Local Third Sector Interface (Aberdeenshire Voluntary Action (AVA)) is represented across all layers of the CPP governance arrangements

Community Councils:

- New scheme of establishment agreed for Community Councils from 1 April 2018
- Scheme enables 16-year-olds to be elected as Community Councillors and allows for at least two young people (14 and 15-year-olds) to have places on a Community Council
- Currently 69 Community Councils active across Aberdeenshire
- When asked, CCs were not positive about a single election approach

Locality Planning Arrangements

- Well advanced place-based planning within communities - 70+ Community Action Plans (CAP) – development led through communities and facilitated by Rural Partnerships. Delivery of CAPS generally through local resident or community associations. Significant participatory approach within Portlethen to develop place-based plan building on Place Standard and community action plan
- 6 Area based local community plans developed prior to Community Empowerment (Scotland) Act 2015 (the Act) and associated statutory guidance and regulations
- 6 locality plans as determined by Public Bodies (Joint Working) (Scotland) Act 2014 being developed – partnership approach in place involving not just HSCP but wider CPP
- 3 CPP locality planning approaches as defined by the Act. Identified through evidenced based approach. Looking at innovative approaches – not just adding additional plans. Partnership approach and incorporating regeneration planning and town centre first principle.

- 17 Learning Community Partnership plans based on academy network clusters
- Recognition that there is a complexity to locality planning and through the CPP locality planning approach and a further review of local partnership arrangements seeking to rationalise approach to support both communities and ensure partnership arrangements are sustainable.
- Local Development Plan 2021-2031 – focus on place rather than policy. Initially engaging with all Community Councils and community organisations using the Place Standard toolkit to understand wants and needs of communities in advance of the ‘call for sites’ work.
- Commitment through Council Plan priorities delivery plans to develop place plans within settlements, likely around academy network

Community Economic Development

- Community Economic Development activities in place to help release enterprise potential within local communities, working with social enterprises, development trusts and community organisations
- Six rural partnerships financially supported by Economic Development. Part of the CPP. Rural partnerships provide advice and support to 500+ community based organisations.

Engagement & Participation

- Strong community learning & development arrangements across Aberdeenshire supporting families and communities. Recent restructure of the service to ensure the key priorities of “Knowing Communities” and “Growing Communities” can be achieved building the capacity of communities to use the Community Empowerment Act to their benefit, including those in the communities with protected characteristics.
- Well-developed Community Asset Transfer Policy (CAT) pre-dating the Act
- Several successful CATs including village halls, public conveniences and leisure facilities. Also, examples of ‘failure’ which is helping to support learning.
- Participation request process in place. No requests received to date. Emphasis is opening dialogue with the council and partners rather than on formal process.
- Engagement policy currently at consultation stage - will ensure officers are supported to engage with individuals and communities and what residents can expect from us.
- Community choices budgeting piloted over two years across all 6 areas. Focus on health and wellbeing outcomes. £500k distributed through grant funding. Used mix of online voting, big vote days and mini-public approach. Currently evaluating approaches and identifying framework to support mainstreaming of the approach.

- Organic approach to developing community participation also having traction and some success. For example
 - snow wardens
 - development of community owned and led resilience plans
 - community planting
 - Friends of Turriff Cemetery
- Some communities very mature in approach and starting to develop approaches for community assets that enable sports and culture facilities to be wholly community owned and run increasing service provision (Example would be MACBI Community Hub).

What Communities Tell Us

- When engaging on the proposed council priorities for 2017-2022 we asked residents, employees, communities, partners and councillors to consider the importance of a priority relating to Enabled and Participating Communities. Community groups, business and area committees were more likely to include this as a key priority, but residents did not.
- Residents and councillors stressed the importance of community involvement / influence in decision-making. This generally was suggested in the form of consulting and engaging with communities prior to implementing policy.
- We speak to 150 residents monthly and ask them to respond to the statement 'The council takes account of residents' views'. In 2016/17, 88% agreed with the statement and over the six months to September 2017 82% agreed.
- In December 2017 we asked our Citizen's Panel about engagement and participation. The majority (64%) would like more say in how local services are provided in the area and 90% believe contributing to decision-making would be a fairly good or good idea. However just 17% would definitely be interested in contributing to decision-making and just 11% would be interested in getting involved in actual service delivery or being part of a community group taking on assets
- The level of interest in having more of a say in how local services are provided is lower in Aberdeenshire than in Scotland as a whole, where the level of interest is closer to 80% (Scottish Public Opinion Wave Monitor)

Appendix 3

Initial Key Themes agreed by COSLA Leaders and Cabinet Sub Committee

“Asymmetric” and “Permissive” approaches to governance

- The diversity of communities and the importance of ensuring that public services can meet that diversity.
- The ability to explore potentially different models of governance for different communities (potentially including city powers, islands governance, and single public authority models).
- Enabling/permissive legislation which could create the conditions and capabilities to provide locally sensitive services.

Collaboration and Integration across public services and councils

- Collaboration and integration including across neighbouring authorities (or those with similar needs/interests e.g. island authorities)
- Collaboration with other public bodies including Community Planning Partnerships, and with social enterprises, the third sector and community models, with varying levels of integration being proposed

Subsidiarity, Empowerment and Participation

- Devolution of power and rebalancing the relationship between national and local government and communities.
- Maximising opportunities for greater local democratic control of other public services beyond local government
- The roles, functions and capabilities of Area Committees, Community Planning Partners, and other arrangements
- Building participatory budgeting, community engagement, and the need to push down power and resources beyond local government to communities
- Addressing the role of community councils, as well as the future relationship between representative, participatory and deliberative democracy.

Scale

- Developing public services at the right scale, for example in relation to regional collaborations, existing council or CPP levels, and community level.
- Capturing economies of scale or scope, but in ways that enable local government and communities to deploy this according to local circumstances and priorities.

Fiscal Empowerment

- Greater financial autonomy over the resources available to provide services
- The consideration of specific measures such a transient visitor tax
- Reviewing the ways in which financial measures are used for central policy initiatives or specific input measures.
- Other opportunities such as budget sharing within CPPs and across specific public services.
- The context of increasing demand for services, significant perceived constraints on local financial flexibility, and reductions in grant.

Appendix 4

Proposed Response Local Governance Review – Strand 2 Engagement Phase

Draft Letter to:

Angela Constance, MSP
Cabinet Secretary for
Communities, Social Security
and Equalities

John Swinney, MSP
Deputy First Minister and
Cabinet Secretary for
Education and Skills

Cllr. Alison Evison
COSLA President

Dear Ms Constance MSP, Mr Swinney MSP and Cllr Evison,

Further to your letter dated 22 June 2018 to all Public Sector Leaders inviting participation in the engagement phase of the Local Governance Review, I am pleased to offer the following response from Aberdeenshire Council.

It was helpful to have consideration of the initial themes agreed by COSLA Leaders and Cabinet Sub Committee and at this stage in the Review process these would not suggest any significant conflict with the early propositions outlined in the officer submission from Aberdeenshire Council provided to Professor John Mitchell on 29 June 2018. The themes reflect collaboration and integration and recognise opportunities that can be offered through existing and amended legislative and financial models that would facilitate improved outcomes for communities through local democracy and participation.

The ability to deliver a Local Democracy Bill during this parliament is noted however it is proposed that a further legislative bill of this type is not necessary, as the provisions contained in the Community Empowerment (Scotland) Act 2015 are sufficiently broad in scope to help support these aspirations. It is submitted that increased use of the community empowerment legislation, coupled with a few discreet legislative changes, would be enough to provide the enablers to achieve the key themes.

More specifically, the following comments are offered in line with the themes discussed during the COSLA workshop held on 18th December 2018 in Aberdeen:

1. Community Empowerment

- 1.1 Relationships and power between public services and communities of interest or geography can be reframed, strengthened and supported through existing arrangements and approaches such as Community Councils, Development Trusts and Rural Partnerships and community bodies as defined in the Community Empowerment (Scotland) Act and other legislation. This would be in preference to the establishment of a new tier of local governance or further defined local community bodies. The challenge for public services is to enable all communities to have a voice that can be heard and can influence/direct

decision making and resources and a positive outcome from the review would be practical support that enables this.

2. Functional Empowerment

- 2.1 It is possible to deliver asymmetric and permissive approaches to governance within existing, possibly amended, legislative arrangements and Aberdeenshire Council and partners already enable decision-making within and alongside communities and recognising the diversity of these communities. Area Committees, local community planning arrangements, regeneration partnerships and community leaning partnerships all exist on a locality basis that best represent the communities of geography or interest. The council also benefits from regional collaborative arrangements as well as shared service arrangements. This devolved approach to democracy has an additional cost per resident and this was reflected in the, now retired, Local Government Benchmarking Framework indicator that identified the cost of the democratic core per 1,000 population.
- 2.2 Existing or planned legislation is already offering greater local democratic control and it is proposed that amendments to existing legislation can further enhance this, for example:
- Incorporation of European Charter of Local Self-Government into law; and
 - Introducing a “Reserved matters” power for local government, acknowledging there are likely to be some powers not specifically reserved by the Scottish Government which may be better placed with other public sector bodies such as the health board.
- 2.3 Sections 15 to 17 of the Local Government and Housing Act 1989 relates to a duty to allocate seats based on political proportionality and, whilst not in force, remains an important foundation to ensuring balance and fairness to local democracy, particularly where a committee structure is in place.
- 2.4 The key themes agreed by COSLA include the ability to explore potentially different models of governance for different communities and specific reference is made to a single public authority model. It is not proposed to endorse a single public authority model however the use of legislation such as the Community Empowerment (Scotland) Act 2015, section 17 (Establishment of Corporate Bodies) could offer a mechanism for alternative models of governance and shared resource allocation. The Transport (Scotland) Bill also offers opportunities to explore a single public authority model for discrete service delivery elements.

3. Fiscal Empowerment

- 3.1 The ability to fully determine the allocation of budget based on local priorities would be welcomed. A removal of ring fencing of the settlement would support this.

- 3.2 The introduction of a 'Power of General Competence' would bring Scottish councils onto a par with councils in England regarding commercial opportunities and the ability to support income generation, which would be helpful.
- 3.3 It may be beneficial for councils to have the ability to take decisions on disposal or change of use of common good assets, rather than this being in the hands of the courts. Further consideration of this would be welcome.
- 3.4 In line with the longer term statutory strategic planning arrangements for the Council and partners (e.g. Local Outcomes Improvement Plan, Integration Authority Strategic Plan) a move towards multi-year settlement information is proposed. As a minimum this should be on an indicative three-year basis.

I hope you find this response helpful. If you require any clarification or further information, I would be more than happy to offer this.

Yours sincerely

Cllr Jim Gifford, Leader
Aberdeenshire Council

