

Caithness Health Action Team  
XXX  
XXX  
Caithness  
KW1 4XB  
By email:

Date: 15 July 2021  
Your Ref:  
Our Ref: PPR/RD  
Enquiries to: Ruth Daly (NHS Highland)  
Extension:  
Direct Line: 01463 704810  
Email: [Ruth.daly2@nhs.scot](mailto:Ruth.daly2@nhs.scot)

Dear XXX

**PUBLIC PARTICIPATION REQUEST DECISION NOTICE**  
**Section 24 of the Community Empowerment (Scotland) Act 2015 – Public Participation Request submitted by Caithness Health Action Team on 3 June 2021**

This letter is issued in accordance with the Community Empowerment (Scotland) Act 2015 ('the Act') and The Participation Request (Procedure) (Scotland) Regulations 2017 ('the Regulations').

A Participation Request submitted by Caithness Health Action Team to NHS Highland on 3 June 2021 ('the Participation Request') was given a Validation Date of 3 June 2021.

**Decision**

Your Participation Request was considered by the Board Secretary and NHS Highland's North Area Manager and referred to me as the Chief Executive. Unfortunately, having considered the matter fully, I have had to **decline** the Participation Request because Caithness Health Action Team is not constituted as a Community Controlled Body.

I know this decision will be disappointing to you.

Please can I stress that we are very keen to continue to work closely with CHAT and engage on the issues that are important to you. I will be asking my colleagues to ensure that they continue to liaise closely with you and consult with you on those issues.

I have summarised below the reasons we cannot take the request forward on this occasion.

Qualification as a Community Controlled Body

To qualify as a Community Controlled Body under section 19 of the Act, the constitution, Articles of Association or registered rules must include the following things:

- (a) a definition of the community to which the body relates,
- (b) provision that membership of the body is open to any member of that community,

- (c) provision that the members of the body who consist of members of that community have control of the body,
- (d) provision that the majority of the members of the body is to consist of members of that community,
- (e) a statement of the body's aims and purposes, including the promotion of a benefit for that community, and
- (f) provision that any surplus funds or assets of the body are to be applied for the benefit of that community.

Unfortunately, CHAT's constitution does not qualify the organisation to be considered a Community Controlled Body due to the arrangements for the organisation's membership. On this basis therefore, the request falls outwith the scope of the legislation.

The following paragraphs provide an outline of our reasoning and a copy of the guidance including advice on eligibility is attached. Referring to the sections of the Act shown above, CHAT's constitution does not comply for the following reasons:

- (b) CHAT's constitution does not make overt provision that membership is ***open to any member of the community***.

The guidance to the legislation outlines that there should be no additional requirements to membership. CHAT would need to remove the discretion and control to membership by the Executive Committee in order to comply.

- (c) CHAT's constitution makes no provision that the ***majority of its members must be members of the community*** of Caithness.

The guidance offers clarification that people (and organisations) who are not members of a defined community may be allowed to join the body, but the governing documents must require that those who are members of the community must always be in the majority. CHAT would need to add this requirement.

- (d) the constitution does not make any ***provision that the members of CHAT from Caithness have control over its operations***.

The guidance to the legislation suggests that "control of the body" means that the members of the community are in charge of the decisions made by the organisation.

The attached guidance offers further detail on the above and makes some suggestions as to how these can be achieved and reflected in the constitution. We would very much welcome a resubmission of the request if these points can be amended.

### **Further Information and Reasoning**

In addition to CHAT's qualification as a community controlled body the above, the following points might also be of assistance:

- It is not clear from the request what health or care outcome(s) CHAT is seeking. We would urge CHAT, in any resubmission, to be as specific as possible as to the outcomes sought, so that we can aim to engage appropriately.
- NHS Highland already has a statutory duty to engage with communities affected by major services changes. We are sorry if the current programme of meetings is not fulfilling CHAT's requirements. We would be keen to hear, whether in a resubmission or informally, how we could improve this.

I look forward to hearing from you in relation to the above and how we can work together to ensure that you are successful with your Participation Request.

Yours sincerely

**Pam Dudek**  
**Chief Executive**