



Shetland Islands Council

16 December 2015

Consultation on Provisions for a Future Islands Bill – Council response

CE-05-15-F

**Report Presented by
Chief Executive**

Chief Executive's Department

1.0 Introduction

- 1.1 This report sets out a draft response to the current consultation exercise being undertaken by Scottish Government on provisions for a future Islands Bill.
- 1.2 The Council's response has been developed through discussions with Members, senior officers and stakeholders over the past few weeks. The draft response is now being presented for formal agreement, ahead of submission to meet the consultation deadline of 23 December.

2.0 Decision Required

That the Council RESOLVE to:

- 2.1 APPROVE the draft consultation response (attached as Appendix 1) and delegate authority to the Chief Executive, or designate, to submit the final version by the deadline of 23 December.

3.0 Detail

- 3.1 The Council has been a member of the Our Islands Our Future (OIOF) campaign over the past two and a half years. As part of its response to the OIOF campaign, the Scottish Government published 'Empowering Scotland's Island Communities' in June 2014, which included reference to an Islands Act. The current consultation is therefore a direct result of that lobbying process.
- 3.2 Over the past few weeks opportunities have been created for Members, senior officers and external stakeholders to discuss the consultation exercise. The outputs from those events have been used to shape the draft attached to this report.
- 3.3 As a member of the Shetland Partnership, the Council will also contribute to the response due to be sent by the Partnership Board. Recognising the fact this is an open consultation, it is expected that individuals and organisations across Shetland will be submitting their own responses.

- 3.4 The OIOF campaign will make a joint islands councils submission. It will draw on the submissions made individually by the three Councils and relevant points put forward by the campaign over the past two years.
- 3.5 The Council continues to be involved in OIOF and it is expected the outputs from this consultation will be discussed at the last meeting of the Island Areas Ministerial Working Group meeting next year. Members are kept up to date on the OIOF campaign through updates in their monthly newsletters and meetings of the Constitutional Reform Project Sounding Board, which are timed to coincide with key lobbying points with UK and Scottish Governments.
- 3.6 The information provided through this exercise will be analysed early next year, but it's expected that detailed work on a Bill will only be carried out following the May election to the Scottish Parliament, next year. As the Bill progresses through its various stages there will be further opportunities for comment to be made.

4.0 Implications

Strategic

4.1 Delivery on corporate priorities

This report makes a contribution to a number of the outcomes set out in 'Our Plan' 2016-20. Most notably is the desire to have made "Shetland's voice heard, with regular and meaningful lobbying of Scottish and UK governments and EU bodies on important issues affecting the islands".

4.2 Community/Stakeholder Issues

As would be expected, the Scottish Government has promoted its consultation process on a number of occasions since it went live at the end of September. Additionally, the Council has sought to raise local awareness by hosting the link to the consultation document on the front page of the Council's website, directly contacting organisations and issuing a press release. The link was sent to all Community Council Chairs and Clerks after the consultation was intimated to the Association of Shetland Community Councils in early October. Members have also raised the matter at several Community Council meetings.

The draft response was developed with input from a wider stakeholder meeting involving community planning partners and representatives from industry. As noted, all Members, as representatives of their communities, have also had the opportunity to put forward views over the past few weeks.

4.3 Policy and/or Delegated Authority

Part A of the Council's Constitution specifies that the Council has responsibility for "approving, adopting or amending the Policy Framework and any plan, policy or strategy which is contained within

the Policy Framework”. A decision is being sought from the Council as a future Islands Bill has the potential to impact on key strategy.

4.4 Risk Management

The point has been made in the draft response that a risk-based and proportionate approach should be adopted when designing Islands Proofing. The Council, in responding to the exercise, is seeking at this stage to help shape the content of the eventual Bill. It is anticipated communities and individuals across the islands will also make use of the opportunity to respond by the deadline of 23 December.

4.5 Equality, Health and Human Rights – The response highlights a number of equalities issues that Islands Proofing could help to tackle.

4.6 Environmental – There are no immediate impacts arising from this report.

Resources

4.7 Financial

Although there are no immediate financial implications arising from this report, the draft response does highlight a number of resource-related points, particularly the requirement for any new or additional powers to come with the resources necessary to allow the Council to use them effectively.

4.8 Legal – There are no immediate impacts arising from this report.

4.9 Human Resources – There are no immediate impacts arising from this report.

4.10 Asset and Properties – There are no immediate impacts arising from this report.

5.0 Conclusions

5.1 This report has introduced a draft response to the current Scottish Government consultation on a future Islands Bill. It picks up on many of the points expressed during consultation in the past few weeks. Members are asked to approve the draft response and delegate authority to the Chief Executive to submit the final draft to Scottish Government before the 23rd December deadline.

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6 December 2015

END

**Consultation on a future Islands Bill
Shetland Islands Council response**

Question 1

Is the concept of 'Island-Proofing' something the Scottish Government should consider placing in legislation through the proposed Islands Bill?

Yes

Please explain the reasons for your answer.

1.1 The need for islands proofing

Islands proofing is a concept that was put forward by the [Our Islands Our Future](#) (OIOF) campaign during meetings of the Island Areas Ministerial Working Group in 2013. The motivation for doing so came from a growing awareness that Government policy and the operations of public bodies can fail to take into account the circumstances and unique needs of island communities. We felt that the concept of islands proofing offered the potential to make a difference.

Islands proofing is as much about a different way of working as the development of specific processes. It requires widespread awareness of island issues amongst policy makers and public bodies. That heightened awareness must influence the design of policy and legislation at the earliest possible stage, so that any potentially unintended negative consequences are identified and mitigating measures built in. The OIOF campaign put forward a detailed case for islands proofing and we were encouraged to see Government acknowledge many of our points in [Empowering Scotland's Island Communities](#).

It is recognised that many of our challenges are also experienced in remote and rural Scotland and we would not wish to enter into a competition to prove "which area is worst off". However, reflecting the national nature of this consultation exercise and taking account of the many challenges that puts distant small communities made up entirely of islands at the extreme end of public service delivery, we feel it is important that we set out why we think islands proofing is such a key piece of policy for an archipelago like Shetland.

1.1.1 Helping to address islands social challenges

Higher cost of living. The [Minimum Income Standard for Remote Rural Scotland](#) identified that the budgets households in remote rural Scotland need to achieve a minimum acceptable living standard are typically 10% to 40% higher than elsewhere in the UK. The minimum income standard of living in Britain today includes food, clothes and shelter, but it also includes having what you need in order to have the opportunities and choices necessary to participate in society. It's about "living" not "surviving" and about "needs" not "wants". This is particularly important in our context, where social isolation and loneliness can be very acute and particularly challenging to address.

The minimum living costs of a household in Lerwick are estimated to be one-third higher than those of a household in a UK city for a working age household and one quarter higher for a pensioner. These are higher for the most remote parts of Shetland. Key factors contributing to higher cost of living across remote rural Scotland include:

- Higher prices for food, clothes and household goods;
- Much higher household fuel bills, influenced by climate and fuel sources;
- The longer distances that people have to routinely travel, particularly to work.

The research also found that (based on 2013 figures) the weekly household fuel bill for a single adult of working age was £12.36 in a rural English Town (social housing), compared to £22.99 in a Northern Isles town (e.g. Lerwick) and £35.13 in a Northern Isles remote small settlement. Further information and analysis is available through the work of Shetland's '[Commission on Tackling Inequalities](#)':

Distance from mainland. Shetland's lifeline ferry route to Aberdeen is around 200 miles long and involves a journey of up to 14 hours. This presents a significant natural barrier in terms of equality of access and access to markets, particularly as much of Shetland's produce has a short shelf-life. The Road Equivalent Tariff, which has been applied to some islands, has widened the differential in cost of travel to and from islands in Scotland. There is a feeling that this has created inequalities in terms of islands' and island groups' ability to compete economically and access opportunities. Reliable and affordable transport, whether by air or sea, is very important for us and it is vital that islands proofing is built into national transport policy going forward.

Example 1

The high cost of travel by air and ferry impacts on social opportunities. Shetland sports people face significant costs when travelling to mainland Scotland to participate in events, competitions and national squads. There is a genuine feeling of inequality when comparing this with their peers on the mainland. In order for competitors who are at national level to be able to maintain and improve standards of performance, and for others aspiring to reach that standard, they must be able to participate in mainland events. Local teams are also often expected to play home games on the mainland, in an effort to reduce costs and inconvenience to others.

An example where a type of islands proofing has made a difference relates to the Shetland Rugby team. They receive funding from the Scottish Rugby Union to help with their travel costs for away matches and other teams are given funding for travel costs for their away matches in the Islands.

Extent and type of disadvantage. Up to now, national measures like the Scottish Index of Multiple Deprivation (SIMD) have perhaps failed to take proper account of the dispersed nature of exclusion and deprivation in Shetland. Although Shetland is often seen as a fairly affluent place, recent research found that 2087 households (around a fifth) have an annual income of £13,573.69 or less.

The fact these conditions exist leads us to conclude that some form of support is required to level the playing field if the islands are to genuinely participate as an

equal partner in a UK and Scottish context. That desire to tackle what we perceive to be ongoing inequalities is at the heart of the need for effective islands proofing.

Example 2

Once powers over welfare provisions are devolved to the Scottish Parliament, it has been suggested that an 'islands supplement' could be added to benefits, in recognition of the reality of the higher cost of living in the islands. This could have a noticeable impact for some of Shetland's poorest families. The Minimum Income Standard for Remote Rural Scotland, for example, demonstrates that a single person on Income Support in a remote island settlement will only receive sufficient funding to cover 30% of what would be required to achieve an acceptable standard of living.

Example 3

Distribution methods for some national funding streams continue to make use of SIMD. The point has been made that this measure fails to take account of the dispersed nature of deprivation and disadvantage in Shetland. The ability to islands proof funding, to ensure the reality of life in remote islands and higher cost of service delivery is taken into account, could have a positive effect.

The Improvement Service has begun to work with our Community Planning Partnership to look at weighting SIMD to better reflect our local circumstances. Islands proofing would enable this work to be incorporated into future allocations of funding to tackle socio-economic disadvantage.

1.1.2 More efficient use of resources

Early identification and prevention of negative outcomes will undoubtedly save money. We continue to see examples of national policy being applied in Shetland that doesn't fit our circumstances. This can be followed by more expensive solutions having to be found and the Council having to absorb any additional costs through already hard-pressed revenue budgets. An example of this is set out below.

Example 4

The proposed national Into Headship qualification is going to be difficult to apply in our small outlying island schools. We feel that it fails to take account of the realities of teaching in small island settings. With pupil rolls ranging from one at Skerries Primary to over 900 at Anderson High School, it's clear that the demands placed upon Head Teachers vary massively. Head Teachers in small schools have a teaching commitment as well as their head teacher role. Opportunities to exercise skills developed through the qualification will inevitably be restricted in smaller schools and lack relevance to the day to day teaching setting.

There is also the practical problem that the qualification could further reduce the chances of recruiting to some of our remote island head teacher posts. It took the whole of the last school year to recruit a head teacher for Fair Isle Primary School, a school with four pupils and one nursery child. When we finally succeeded we had one applicant. The year before that it took six months to recruit a head teacher for Foula Primary School, a school with three pupils. There were only two applicants for that post. The changes in

qualification could increase the cost of recruiting head teachers in Shetland or result in posts remaining vacant for longer.

1.1.3 Achieving our full economic potential

Islands proofing is not about isolating ourselves, special pleading or seeking blanket provision of financial uplifts. We have made the point to both UK and Scottish Governments that Shetland is a net contributor to the national economy. Shetland and the seas around us possess some of the country's most valuable natural resources as evidenced from our seafood industry, the oil and gas industries and renewable energy potential. However, we are very conscious high operating costs are an ongoing challenge to business competitiveness in the islands.

Islands proofing could further help us to achieve our potential and, in doing so, enhance our already considerable contribution to the nation's economic output. The success of areas like Inverness over the past 30 years, where favourable Government and Regional policies have enabled growth, provides evidence that properly directed intervention and measures to level the playing field can generate significant payback over the longer-term.

1.1.4 Recognising island diversity

There is also a need to recognise the reality that not all islands are the same. The diversity of Scotland's islands was acknowledged through Empowering Scotland's Island Communities and that is something that should not be lost in the islands proofing process. There are many differences between Scotland's 93 inhabited islands, but it is fair to say there are also many differences between the islands that make up islands Council areas. We therefore feel that a "one size fits all" approach to national policy must not be replaced by "one size fits all islands".

Example 5

Crofting legislation is an area where we feel an opportunity has been missed to take into account islands diversity, with the national approach leading to reduced discretion, more prescription from the centre and significant additional statutory time being added to processes. We feel islands proofing would have allowed for a diversified approach to be taken that more suited the local conditions in Shetland's crofting communities.

The majority of part croft decroftings are carried out to facilitate the building of a family home. This is a consequence of the difficulty of securing a loan on croft land. Almost all of these decroftings are granted on first application. There is support for the argument that decroftings for a family home should simply be statutory. There is also a view that whole croft decrofting in Shetland should likewise be statutory and automatic on application.

Example 6

The Waste (Scotland) Regulations 2012 promote recycling and a circular economy for Scotland. To achieve the high target, Government set up a waste brokerage scheme to obtain best value for recyclable material and the remaining residual waste. The Household Recycling Charter also aims to develop a more consistent and coherent waste collection service throughout Scotland obtaining high value recyclable material.

Although Shetland can benefit from these schemes we have a distinct disadvantage compared to other areas, because of our geographic location and the cost of freight. Looking ahead, if we were to use government schemes, moving away from an already Best Practical Environmental Option, islands proofing must ensure that freight cost for waste is included in the contract prices quoted by the waste brokerage scheme.

1.2 Making islands proofing work in practice

It is clear from the experience of “rural proofing” that early and meaningful assessment of likely impact is crucial to success. The point has been made in the consultation document that the Scottish Parliament Standing Orders (Chapter 9: Public Bill Procedures, Rule 9.3 on Accompanying Documents at Paragraph 3.A) already provide that a government bill must be accompanied by a policy memorandum which sets out “an assessment of the effects, if any, of the bill on equal opportunities, human rights, **island communities**, local government, sustainable development”. However, we would respectfully observe that the Shetland experience has been those mechanisms do not always have the desired effect. Reasons for the failure to make a meaningful difference will be varied, but the fact that the islands ‘check’ is carried out late on in the process could be a factor and one that would strengthen the case for islands proofing to be carried out by Government at the earliest possible point in developing all policy and legislation.

We also recognise the consultation document points out that the Scottish Parliament already possesses the powers to vary the application of legislation by geographical area. We therefore feel meaningful application of that power, coupled with effective islands proofing in the ways set out in Part Two of the consultation document, would go some way towards implementation of the findings of the Committee of Enquiry and Functions and Powers of the Island Councils of Scotland chaired by Sir David Montgomery (the Montgomery Committee).

It is important that islands proofing becomes a requirement rather than just guidance that can be ignored. Experience would suggest there is a risk that a voluntary process could become a passive, ‘tick-box’ exercise only undertaken for compliance purposes. That would fail to acknowledge the very strong reasons that necessitate the process in the first place and would fail to capitalise on the many benefits it could offer islands communities and Government. If it is to be truly meaningful, we feel that it is also important that islands’ opinions are sought and considered as part of the process. We look forward to further engagement with Government on the detail of how this might work.

Question 2

If you answered ‘Yes’ to question 1, do you agree that Scottish Ministers should have the power to issue statutory guidance to other relevant public bodies related to Island-Proofing which they would be required to adhere to in exercising their functions and duties.

Yes

Question 3

If you answered 'Yes' to question 2, please state which public bodies, and what specific decisions this statutory guidance you think this should relate to?

In order to deliver meaningful islands proofing and to capture all unintended negative impacts on islands, our opinion is that the statutory guidance should extend as far as possible, and cover all public bodies in Scotland. Without being prescriptive, examples of some relevant public bodies would include:

- Non-ministerial government departments (for example, Food Standards Scotland etc).
- Executive Non Departmental Public Bodies (NDPBs) (for example, Highlands and Islands Enterprise, Care Inspectorate, Creative Scotland, SEPA, Sportscotland etc).
- Advisory NDPBs (for example, Local Government Boundary Commission for Scotland, Mobility and Access Committee for Scotland etc).
- Tribunals.
- Public Corporations (for example, Highlands and Islands Airports Ltd, Scottish Water etc).
- Executive Agencies (for example, Education Scotland, Transport Scotland etc).
- Health Bodies.
- Other significant national bodies such as Scottish Police Authority, Scottish Fire and Rescue Service.

It is acknowledged that not all public body operations will have an equal impact on the islands. Therefore, it is expected that a risk-based and proportionate approach could be factored into the guidance as it is developed. It will also be important that guidance takes account of reducing resource levels and can be introduced without the need for additional resources and resultant revenue implications.

Question 4

Are there any other areas that you feel the policy of Island-Proofing should cover?

Example 1.1 provides some detail of how islands uplift could be applied to welfare payments in recognition of the higher cost of living in the islands. The same approach could be applied to other areas of Government grant in recognition of the generally higher cost of islands life. An example could be agreement to factor an islands supplement into funding for capital projects to take account of the reality that project costs can be more than 30% higher in Shetland than the mainland. This was illustrated during the preparatory stages of the new Anderson High School project.

Where national reviews are being carried out, the process must demonstrate a full understanding of islands issues. A recent example of this has been the independent review of planning in Scotland, where the islands Councils have been involved and one of the Heads of Planning will appear next year to give evidence.

As a key community planning partner, we feel it would be important that the duty extend to Third Sector functions and duties. It is acknowledged that it would be important to take their views into account before this happened.

The last point relates to national collaboration projects, where experience would suggest it is assumed that all Councils across Scotland can participate and derive equal benefit. It can be the case that islands Councils lack the transport links, close proximity to neighbouring authorities and scale of operations to justify a business case for participation. We would wish islands proofing in that context to take the form of an acknowledgement of these factors and a guarantee no future disbenefit would apply as a result of failure to participate.

Question 5

Do you agree that the current powers Island Councils, and Councils with Island responsibilities presently have are sufficient to deliver positive outcomes for their local island communities?

No

Question 6

If you answered 'No' to question 5, please outline what additional powers you feel they require to benefit or better protect the island communities they serve, and explain the reasons for your answer.

In answering this question, we feel it is relevant to observe that our experience over the past twenty years has been one of gradual removal of powers from our islands' Council. After the Local Government (Scotland) Act 1994, responsibility for services including water supply and sewerage were removed from Councils and placed under regional Authorities. More recently we have seen consolidated governance arrangements in some other key areas. These developments have perhaps contributed to the opinion put forward by the [Commission on Strengthening Local Democracy](#) that communities are feeling disempowered and alienated from the democratic system. In many respects, granting "additional" powers through the Islands Bill could be seen as returning some of the powers and flexibilities that have been removed over the past twenty years.

We have structured our response to this question in three parts:

- Circumstances demand that we must have the powers to allow us to proactively address the challenges we face now and in the future.
- We need enhanced flexibility to make better use of our existing powers.
- Islands Councils are legally constituted bodies to which powers can be devolved without the need for radical legislation.

6.1 Additional Powers

We see this Islands Bill as an opportunity to create the enabling powers that would enhance our ability to develop new solutions to the challenges we face now and in the future.

It is clear from the ongoing financial constraints and projected increasing demand for services that application of past solutions to future problems will not be enough. We

are entering a period where we must be allowed the flexibility to generate innovative and potentially radical ways of working, make better use of improved technology and the resources we have available locally in the public sector, eliminate waste and focus on maintaining excellent outcomes. That point is in line with the messages from [Audit Scotland](#), where Councils are being encouraged to be bold.

All policy and legislation ought to be dynamic and responsive to changing circumstances and be able to take advantage of new opportunities. Islands proofing of new policy and legislation is necessary but not sufficient. We also need a continual process that allows islands proofing by the review, updating and adaptation of existing policy and legislation.

We are aware of the growing call for enhanced localism and support the arguments put forward by the Commission on Strengthening Local Democracy. What's more, during the Scottish Government Cabinet visit to Shetland in July 2013, the then First Minister Alex Salmond made it clear through his 'Lerwick Declaration' that the Scottish Government supports subsidiarity and local decision making.

We note that it is now over 30 years since the special status of Islands Councils was acknowledged by the Montgomery Committee. The key principles established were:

- (a) Opportunities should be taken whenever possible to **consolidate, develop and extend** the powers of Island Councils in a continuing process of development in the local government of the islands; and
- (b) Acts of Parliament should include a position to vary the application to the Islands areas.

We believe that the Scottish Government should have the power to devolve powers from national bodies to Islands Councils where appropriate. An example in our case would be certain powers with regard to fishing regulation and management and income from Crown Estate activity relating to the seabed and foreshore around us.

Were the Scottish Government to vary national legislation, policy, standards and qualifications, it would enable Islands Councils and Community Planning Partnerships to take further advantage of modern developments in areas such as telehealth, telecare and distance learning so as to be able to deliver services on islands with small populations that might not otherwise be possible.

We therefore see the Islands Bill as being the opportunity to put in place new powers and ways of working that would give real meaning to the Lerwick Declaration and the principles of the Montgomery Committee.

We also see the Bill as an opportunity for Scottish Government to signal their commitment to the principles enshrined in the EU Charter of Local Self Government (the Charter). Through Empowering Scotland's Island Communities, the Scottish Government committed to ensuring that "the special status and needs of Scotland's islands and the principle of subsidiarity as it relates to the place of Scotland's islands within the EU are recognised in its planned Islands Act". Article 3 of the Charter establishes the concept of "local self-government as the right and the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population". Article 9 states that "Local authorities shall be entitled, within national economic policy,

to adequate financial resources of their own, of which they may dispose freely within the framework of their powers". These articles therefore provide for the powers and appropriate resources at the local level. Were they able to be applied, we feel it would go some way to delivering tangible localism.

6.2 Flexibility to make better use of existing powers

The Islands Councils, through OIOF, have sought the flexibility to make better use of the powers we already possess. The Local Government in Scotland Act 2003 introduced a power for local authorities to do anything which it considers is likely to promote or improve the wellbeing of its area and persons within it. This includes power to incur expenditure; give financial assistance; enter into agreements; co-operate with, facilitate or co-ordinate the activities of any person; exercise on behalf of any person any functions of that person; provide staff, goods, materials, facilities, services or property to any person.

The power may also be exercised outwith the area of the local authority if it is considered that to do so would advance the wellbeing of the authority's own area or inhabitants.

However, the power to advance wellbeing has built-in limits to its application. Where there is a limiting provision in an Act of either Parliament or in a statutory instrument which prohibits or prevents a local authority from doing anything or somehow limits its powers, a Council cannot use the power of wellbeing to override that provision. Local authorities also cannot use the power to unreasonably duplicate anything which is within the statutory duties of another public authority without that authority's consent. Moreover, the power does not enable a local authority to raise money by imposing a tax or charge, apart from imposing reasonable charges for defraying costs incurred in supplying goods or services.

We feel that these restrictions limit our ability to give proper meaning to the aims of the Act.

6.3 Islands Councils – legitimate bodies for devolution of additional powers

In answering this question, we feel it is important to note the distinction drawn in the consultation document between "Island Councils", and "Councils with Island responsibilities". It's worth noting that OIOF has been progressed on the basis that any benefits secured will often apply to all other Councils who wish them, particularly those with coastlines or islands. The following points are being made simply to reinforce the view expressed in answering Question 1 that an Islands Bill needs to be flexible enough to cater for islands diversity.

An Islands Council like Shetland is an easily identifiable and legitimate tier of government which already possesses the pillars that we would feel would greatly assist the devolution of additional powers. Some of these are set out below.

6.3.1 Legal status/democratic mandate:

Shetland Islands Council is a unitary authority with a democratic mandate to represent the people of Shetland. We are uniquely focused on island issues. It is our sole reason for being. The Council has the operational and administrative capability to deliver services and business processes to the highest standards. It gives the opportunity to devolve all types of public service and vary legislation and policy in respect of areas with Islands Councils that might not be possible elsewhere.

The opportunity to take advantage of the combination of democratic mandate and operational capability of islands Councils must not be missed.

6.3.2 Clearly defined constituency boundary:

The natural boundary provided by the sea defines us as a distinct grouping. As our Council represents the whole of the Shetland archipelago, it removes any confusion around the body to which additional powers would be devolved.

6.3.3 Accountability:

Communities in Shetland are very engaged with local government issues. The public has easy access to their elected representatives and information on the way their Council operates. This helps create the conditions for strong accountability to exist.

6.3.4 Experience of managing local development and community funds:

In many ways Shetland set the standard for community benefit with the establishment of the ZCC Act and generation of income from oil activity which provided the means to establish a community fund and invest in local infrastructure. A key challenge has been ensuring our use of those reserves is sustainable into the future. It has been widely acknowledged that the Council has put in place robust governance and financial management arrangements, essential for the transfer of additional powers in future.

Looking ahead, we feel it is particularly important that the Council has the ability to realise community benefit from industries operating in and around our islands and to co-operate with those industries to facilitate economic development and wealth creation for the benefit of both Shetland and the whole of Scotland.

Question 7

Do you feel there is a requirement to make any additions to the existing Zetland and Orkney County Council Acts of 1974?

No – In respect of the Zetland County Council Act 1974

Having given this some consideration, we feel that the ZCC Act has served the Shetland Islands well over the years and continues to have a very important place. In the context of this consultation, we feel that an Islands Act has the potential to deliver positive outcomes in terms of enhanced local powers, without the need to change the ZCC Act. Therefore we would not wish for there to be any additions at this moment. The OCC Act would be a matter on which Orkney Islands Council would wish to respond directly.

Again, recognising the national nature of the consultation, we would respectfully observe that we do not feel it would be appropriate for other areas to determine amendments to this long-standing piece of legislation. We feel that the views of the people of Shetland must be given particular significance on this question.

Question 8

Should any of the powers currently set out in the Zetland and Orkney County Council Acts of 1974 be extended to the Western Isles and other relevant Councils?

Yes

If 'Yes' please explain which powers and give the reasons for your answer.

The three islands Councils are currently working together through the OIOF campaign for devolution of the management and income generated from the seabed and foreshore around their islands, currently exercised by the Crown Estate. Enhanced regulatory powers could be helpful to the Western Isles as part of that process. An extension of the geographic application of works licensing powers contained in the Orkney County Council Act 1974 would also be warranted in that context.

Question 9

Do you think the Scottish Government should introduce a 'National Islands Plan'?

Yes

Please explain the reasons for your answer.

An Islands Plan would represent a strong message from Government that it means to sustain its commitment to the islands into the future.

We fully support the suggestion in the consultation document that Ministers could be required to report annually to the Scottish Parliament on progress with the plan, to take into account the needs and circumstances of islands.

The Plan could also allow for a regular check to be made on whether islands proofing was delivering a meaningful difference for island communities, with examples highlighted as to where it had been applied.

Question 10

Are there any specific areas you feel the plan should cover and report on?

We would be very happy to engage further with Government on the format and content of the Plan.

Question 11

If such a plan was introduced, what in your view would be an appropriate life span for the plan – e.g. 3 years/5 years/other?

We feel that an Islands Plan should be based on a 5 year timescale which would align with the duration of key local plans and strategies and also allow it to span

Parliamentary and local Government terms. This would further emphasise the non-political nature of Governmental support for the islands.

Taking cognisance of the fact some EU Funding Programmes cover a period through to 2030 and recognising the critical nature of our transport links, we would propose that there be a commitment to at least three Plans, with reviews built in at the end of every Plan.

Although the detail would clearly require further discussion, conceptually we feel that it could also be a useful focal point for the Islands Minister – helping that person keep islands issues at the heart of Scottish Government thinking.

Question 12

Do you agree that statutory protection should be given to the Na h-Eileanan an Iar Scottish parliamentary constituency?

Yes

Please explain the reasons for your answer.

This was a matter upon which the Our Islands Our Future campaigned jointly with Comhairle nan Eilean Siar, and we would therefore fully support it.

Question 13

Should the Scottish Government consider amending the Local Governance (Scotland) Act 2004 to allow the LGBCS the power to make an exception to the usual 3 or 4 member ward rule for use with respect to populated islands?

Yes

Please explain the reasons for your answer.

As a Council, we recently made representation to the LGBCS on changes to ward boundaries in central Shetland. Through that we made the point we felt the approach to determining ward boundaries needed to be more mindful of the benefits that can derive from empowering communities, reinforcing local democracy and recognising the strengths of existing community units. This is particularly so in sparsely populated areas with populations dispersed across small islands.

We are supportive of the proposal that amendments could be made to the Local Governance (Scotland) Act 2004 to allow LGBCS power to make an exception to the usual 3 or 4 member ward rule and feel much could be achieved by simply allowing one or two member wards.

However in some cases it would also be helpful to the setting of ward boundaries by varying elector: councillor ratios and by applying a less constricting adherence to electoral parity between ward areas.

In the Shetland context the current inflexibility results in unwelcome outcomes when setting ward boundaries and practical problems for Councillors engaging in their constituency representative roles. For example the North Isles ward where currently

three Members are required to cover five islands. Three islands and in particular Whalsay (population of c.1000) have no resident elected Member. The Association of Shetland Community Councils recently expressed their views on the multi-member ward arrangements in the North Isles ward.

It would be useful to understand more fully if any proposed changes could allow for a two Member ward covering Unst, Yell and Fetlar and a one Member Ward for Whalsay and Skerries. It is perhaps worth noting that in the past Whalsay and Skerries, for example, was a distinct ward and had its own Councillor.

Clearly any changes would require detailed further consideration and the wishes of those island communities would be of paramount importance.

Question 14

Please provide details of any additional issues, not addressed in your other responses, that you think should be considered in relation to the introduction of a future Islands Bill and its potential provisions.

The review of rural proofing in England would tend to reinforce the view that a lot of time and effort will be required to make islands proofing meaningful and sustainable. In order to help with that, we would ask that the Islands Desk at Scottish Government be made permanent and close working continue with islands Council representatives at Member and officer level.

Empowering Scotland's Island Communities said "the three Islands Councils will continue to enjoy all such special powers as they have at present, and there is no intention to legislate to diminish those powers or to adjust the territorial jurisdiction of the Councils". That was a key message and one that we feel is very relevant going forward. Our concluding point is that we would wish Scottish Government to continue to honour that commitment through their approach to this and future legislation.

ENDS