

## **Consultation on Provisions for a Future Islands Bill**

### **Submission to Scottish Government Consultation by Community Land Scotland**

Community Land Scotland (CLS) is the representative body for Scotland's growing number of community land owners.

CLS has a number of members owning land within Island Council areas, and within Council areas with islands. In the area of Comhairle nan Eilean Siar, over half the land is now community owned land, so the future of the islands and their governance is of importance to our members and all the residents living within community owned land in those areas.

#### **Question 1**

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

Yes. It is important this is not a token provision and that what is implied by 'Island proofing' forms part of clear Guidance to all who would have responsibility for it, to ensure the range of questions and considerations implied are clear, understood, and auditable.

#### **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, Ministers should definitely have powers to issue necessary Guidance.

#### **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?**

Comhairle nan Eilean Siar has suggested that the statutory guidance should be entrenched in the process for decisions in a similar manner to that utilised to fulfil the public sector equality duty and this would be an appropriate way to proceed.

Comhairle nan Eilean Siar make specific the suggestion that the duty should apply to all public bodies unless a particular public body can satisfy Scottish Ministers that the duty is not relevant to its functions, and they cite a range of bodies, and CLS support this approach.

#### **Question 4**

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

The 'Island proofing' that may be required by Scottish legislation should be expected to apply to the development of any policy and law within the devolved competence of the Scottish Parliament. It would further to be hoped that the UK government would adopt the Guidance for consideration of policy reserved to them and all their agencies which have a remit in Scotland.

#### **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?**

Part of 'Island proofing' ought to require that when new policy and law is being considered, or policy is being reviewed, that a key question to be asked would be whether the devolution of more power to the Islands Councils or Councils with islands would be potentially advantageous to the governance and sustainability of those areas.

In this sense, the approach should be less one of identifying specific additional powers now, but of addressing this continuously over time. In this context, it would seem appropriate that in legislating for the Islands in any Islands Bill that is brought forward, Ministers should be given powers to enact secondary legislation to devolve specific functions or responsibilities to Islands Councils and Councils with Islands, as appropriate, and without the need for specific amendments having to wait to be brought forward in changes to Primary legislation. This would facilitate an ongoing ability to enhance islands powers, as necessary and appropriate.

#### **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.**

See answer to 5.

#### **Question 7**

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

**If 'yes' please state what additions should be made and give reasons for your answer.**

CLS has no view on this matter as it is beyond its experience.

#### **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, CLS supports the position of Comhairle nan Eiolean Siar in this.

#### **Question 9**

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

Yes, this would have the benefit of focussing specific attention on islands needs from time to time and allowing a framing of potential actions to meet needs. Any such plan should be reviewed at least every 5 or 7 years.

#### **Question 10**

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

Any such plan, as it is envisaged as a National Plan, should look to the issues and responsibilities that are held at the Scottish level and rehearse discussion about areas of broad policy appropriate to Islands' needs (including those within Councils with Island responsibilities) at that point in time, and set out what the Scottish Government at its own hand or through its agencies will endeavour to consider and do to enhance Islands life and sustainability.

It is suggested a separate reporting arrangement be put in place to report on progress against the plan, by Ministers, to the Scottish Parliament.

#### **Question 11**

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

The Plan could cover a period of 5 to 7 years, but reporting upon the plan should be done every 2 or 3 years.

#### **Question 12**

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

Yes, it seems anomalous this is not consistent with protection for the Orkney and Shetland parliamentary constituency.

#### **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. As a matter of principle allowing greater flexibility can only help to tailor specific Islands solutions to islands issues.

#### **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.**

Comhairle nan Eilean Siar has suggested that the founding principles of the Bill should be the findings of the Montgomery Committee that (a) opportunities should be taken whenever possible to consolidate, develop and extend the powers of Islands Councils [and CLS would add Councils with islands responsibilities] in a continuing process of development in the local government of islands; and (b) Acts of Parliament should include a provision to vary the application to the islands areas. CLS supports this position.

The suggestions above about Order making powers to devolve responsibilities as appropriate would be consistent with this approach.

Community Land Scotland  
21 December 2015