1. To what extent do you consider the Bill will empower communities, please give reasons for your answer?

We welcome the empowerment of our local communities, particularly the emphasis on subsidiarity – the Bill echoes the important messages set out in the ‘Our Islands Our Future’ Campaign and endorsed by the Scottish Government in their response: ‘Empowering Scotland’s Island Communities’. Orkney Islands Council already has a range of initiatives underway which contribute to local community empowerment and has an existing culture of welcoming community bodies wishing to participate in an outcome improvement process.

For these reasons we assume that a community body wishing to participate in a local authority process would still be able to simply pick up the phone and ask, and not be statutorily bound to follow the prescribed process. Given their limited capacity, it could be that this requirement might put off local bodies, rather than empower them. Ideally the legislation should be there to be resorted to if the simpler route to participation were to be blocked, rather than being obligatory on every occasion.

With regard to the Community Right to Buy, we are not aware of any instance since the introduction of this legislation in 2003 when it has been used in Orkney. It is unlikely that the changes in the current Bill will have much impact due to local circumstances, partly as the Council provides existing support to local communities through its assets.

With regard to Allotments, most of the provisions in the Bill relate to new duties for local authorities. There is little new empowerment for communities in Orkney since the Council already consults and invites representation on new policy. The new entitlement to grow and sell food is the most significant new empowerment.

2. What will be the benefits and disadvantages for public sector organisations as a consequence of the provisions in the Bill?

With regard to community planning, the statutory bodies already participate willingly and the Bill will enshrine in statute the Orkney status quo. Where it might make a difference, however, is in empowering the statutory partners to devote as much time and resource to community planning as they would like to do, but have on occasion found to be incompatible with competing demands.

Parts of the Bill will generate more bureaucracy for public sector authorities, especially if, as explored above, following the prescribed statutory processes is to be obligatory for community bodies and not simply available for their use if required. Any additional bureaucracy carries a cost.
The Allotments legislation will benefit both local authorities and communities, not least by clarifying their responsibilities. However, it will create additional workload such as the development of a food strategy, annual reports, development of websites etc.

3. Do you consider communities across Scotland have the capabilities to take advantage of the provisions in the Bill? If not, what requires to be done to the Bill, or to assist communities, to ensure this happens?

Orkney’s communities are relatively well empowered already, with a thriving network of community councils supported centrally by the Council. Several islands have Development trusts and are supported by community planning partners to employ Local Development Officers. Others have done so in the past, using the resource to compile local development plans and raise funds for local economic development, notably wind turbines. This has helped many of the islands to become more resilient. The Partnership is now piloting a new initiative – the Community Empowerment Scheme – in two of the smaller isles, with the aim of enabling them to take on more contracts locally, and we look forward to rolling this out to other island communities in due course.

Quieter local voices may need advocacy to ensure that they are heard by decision makers. Orkney’s Third Sector Interface, Voluntary Action Orkney, has many years’ experience in supporting local voluntary bodies and social enterprises, offering a range of professional and support services and representing their interests on local and national forums. The value of this work has long been appreciated in Orkney. We are therefore disappointed that the Community Empowerment (Scotland) Bill not only fails to include Third Sector Interfaces (TSIs) among its list of statutory community planning partners at Schedule 1, but does not make any reference to the Third Sector at all. This is doubly disappointing given that the 2012 consultation asked specifically: “How can the third sector work with Community Planning partners and communities to ensure the participation of communities in the Community Planning process?” We feel that the Bill has missed a vital opportunity to acknowledge and embed the essential contribution of the Third Sector to empowering communities. To do so would have helped to empower the TSIs themselves by giving them legitimacy as equal partners in the community planning process.

4. Are you content with the specific provisions in the Bill, if not what changes would you like to see, to which part of the Bill and why?

Part 2
4. Community planning

(3) Outcomes of the type mentioned in subsection (2) (“local outcomes”) must be consistent with the national outcomes determined under section 1(1) or revised under section 2(4)(a).
The meaning of "consistent" in this clause will need clarification, either here in the Bill or in the accompanying statutory guidance. In our response to the draft Bill in January 2014, we endorsed the Scottish Government's adoption of national outcomes but advised that they should not be cascaded to CPP level as every CPP will have its own local priorities. As it happens, Orkney's current SOA lists key local priorities aligned to each one of the 16 national outcomes, and is therefore perfectly consistent with them, but as a result has been criticised for being too lengthy and losing its local focus. Sixteen outcomes is too large a number for an SOA.

**Part 2**

**8. Governance**

(1) For the area of each local authority, each community planning partner mentioned in subsection (2) must—
(a) facilitate community planning,
(b) take reasonable steps to ensure that the community planning partnership carries out its functions under this Part efficiently and effectively.

(2) The persons are—
(a) the local authority,
(b) the Health Board constituted under section 2(1)(a) of the National Health Service (Scotland) Act 1978 whose area includes, or is the same as, the area of the local authority,
(c) Highlands and Islands Enterprise where the area within which, or in relation to which, it exercises functions in accordance with section 21(1) of the Enterprise and New Towns (Scotland) Act 1990 includes the whole or part of the area of the local authority,
(d) the chief constable of the Police Service of Scotland,
(e) the Scottish Fire and Rescue Service,
(f) Scottish Enterprise.

The Bill does not specify that Scottish Enterprise and HIE are alternatives, i.e. HIE will be the responsible partner body in the Highlands and Islands and Scottish Enterprise elsewhere. This should be clarified. Scottish Enterprise is not a relevant body in Orkney.

**SCHEDULE 1**

*(introduced by section 4(1))*

**COMMUNITY PLANNING PARTNERS**

The list of community planning partners does not include Third Sector Interfaces. As noted above at question 3, we see this as a major omission and would ask that this be remedied before the Bill progresses any further.

**PART 7**

**ALLOTMENTS**

Part 7 of the Bill is helpful in such that it makes clear who is responsible for what, what can be challenged and the way in which that should be done.
5. What are your views on the assessment of equal rights, impacts on island communities and sustainable development as set out in the Policy memorandum?

There is very little in the assessment of impacts on island communities in the Policy Memorandum. As noted in our response to the 2012 consultation, the protected characteristics enshrined in the Equality Act 2010 do not include the key equality consideration for island populations, which is geographical access. We would like to see this addressed as a matter of course in all assessments of impacts on island communities.

In relation to Part 7, and the impact on island communities, we do not foresee there being a shortage of land in Orkney to provide additional allotments. The problem here could be providing sites within a short travelling distance from the two towns.

It would be helpful if the Bill could be screened to ensure that the potential future developments set out in the Island Areas Ministerial Working Group report of June 2014, "Empowering Scotland's Island Communities", could be accommodated by future legislation within the broader provisions of the current Bill.

Orkney Islands Council
5 September 2014