Submission from Orkney Islands Council

1. Does any action require to be taken to improve the level of public engagement and interaction with local government, if so please suggest what action might be beneficial?

Submission

Orkney already has a very high level of public engagement and interaction with local government. All of the elected members of Orkney Islands Council were elected as Independents, and so have no party political barriers; and, being in such a small community, are easily visible and accessible to their constituents. The multi-member ward system has improved matters by giving people a choice of local councillor to contact. Local media (radio and newspaper) demonstrate that the business of the Council is a favourite topic for public engagement and generates a good deal of constructive feedback, and the Council and OCPP partners are making increasing use of social media. Traditional face-to-face methods of engagement are still well supported, and the Council has recently undertaken a roadshow visiting various local venues to engage with local residents on the Our Islands Our Future campaign.

We fully recognise that there is always room for improvement and expect that to be most significant via social media in future, this area having the most scope for development. Nevertheless, Orkney Islands Council would be reluctant to see any specific measures prescribed nationally, since it is unlikely that any particular measures would work equally well in both urban and remote rural areas.

Island Proofing was explicitly referred to in the “Asks” of Orkney Islands Council’s Single Outcome agreement 2011-14.

While The Scotland Act 1998 places no obligation on Scottish Government to island proof government bills, the Standing Orders of the Scottish Parliament state that a government bill shall also be accompanied by a policy memorandum which sets out:

- a) the policy objectives of the Bill;
- b) whether alternative ways of meeting those objectives were considered and, if so, why the approach taken in the bill was adopted;
- c) the consultation, if any, which was undertaken on those objectives and the ways of meeting them or on the details of the bill and a summary of the outcome of that consultation; and
d) an assessment of the effects, if any, of the bill on equal opportunities, human rights, island communities, local government, sustainable development.

Orkney Islands council believes that the present system of consultation is ineffective in addressing islanders concerns. Moreover, the Consultation for the Policy Memorandum does not effectively engage or interact with the public.

2. Views on the current legal and funding positions of local government.

Submission

a) Legal Position

The three island areas adopted the unitary council model at the time of the 1975 local government reorganisation, which saw the rest of Scotland move to Regional and District Councils. Thereafter, unitary local government was created on the mainland in 1996.

In essence, the three island areas were used as a pilot when they became “all purpose” authorities in 1975. The roll-out of the “all purpose” structure in 1996 to the rest of Scotland is testament to the success of the “all purpose” authorities.

The Scottish government has pledged that Scotland’s councils will have their role enshrined in a written constitution after independence: currently, the UK and Scottish parliaments could both abolish local government outright. Orkney Islands Council therefore wishes protection of its legal status.

The status quo is untenable where councils, that provide the services in response to the needs of their communities, can be disestablished at any time by national government.

Without protection in legislation or a constitution, Orkney Islands Councils is vulnerable to developments that may not necessarily be to its or its community’s advantage.

The three islands areas are special places with special requirements.

The special status of Islands Councils was acknowledged in 1984 by The Montgomery Committee of Enquiry into the Functions and Powers of the Islands Councils of Scotland.

The key principles established by the Montgomery Committee are:
(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.

The special status of the three Island areas has also been recognised by the Scottish government with the formation of the Island Areas Ministerial Working Group.

The recent commitment by the Scottish Government in the Consultation paper on the Community Empowerment (Scotland) Bill to the principles of the European Charter of Self Government is welcome. This recognises that Local Authorities are one of the main foundations of any democratic regime and that it is at local level that this right can be most directly exercised. There should be a commitment to delegate functions down to the lowest level, whether to Local Government or the community. It is noted that in section 5.2 of the Scottish Government’s consultation paper on the Community Empowerment (Scotland) Bill, the Government states that on independence they will argue for Scotland’s Constitution to guarantee the status and rights of local government.

Paragraph 194 of the consultation paper on the Community Empowerment Bill states:

“Through these actions the provisions of the European Charter are given renewed life and meaning and our proud tradition of local government is upheld. Indeed, because we recognise that local councils are an integral and essential element of the overall good governance of Scotland, we will argue upon independence for Scotland’s Constitution to guarantee the status and rights of elected local government.

Article 2 of the Charter states:

The principle of local self-government shall be recognised in domestic legislation, and where practicable in the constitution.

b) Funding Position

A key priority in Orkney’s Single Outcome Agreement 2013-2016 is: establishing parity of funding for all Scottish islands authorities.

Orkney is seeking a fair and equitable annual funding settlement that guarantees sufficient resources commensurate with its responsibilities provided for by law and which is not to the financial detriment of any of the islands councils. This could be
linked to the positive actions on behalf of Orkney Islands Council to move towards the establishment of a SPA.

Public services in Orkney cover a very wide scope. Few local authorities on the Scottish mainland are responsible for harbours, an oil port, a ferry fleet and a pilotage service, as well as putting in place the infrastructure required to support a rapidly growing marine renewables industry.

Orkney Islands council is the smallest local authority in Scotland and continues to face financial pressures due to rising fuel and energy prices and an increasing demand for Council services.

The delivery of the normal range of public services in Orkney presents significant challenges; over and above this, they also require to be distributed across 18 islands. Every public body in Orkney has expertise in local conditions and it makes perfect sense to pool that expertise when considering how best to structure the future delivery of services. This is best achieved through a SPA.

It is submitted that the SPA model will deliver “even better services for less”.

The delivery of Council services is set against a historical funding anomaly which sees Orkney in receipt of funding from Scottish Government at over £500 per head lower than the other two island councils.

Orkney Islands Council has repeatedly greeted the grant settlement and funding formula with incredulity. This has been the case given the difference in the per-head of population funding between Orkney and Shetland and between Orkney and the Western Isles. The per-head funding comparator between Shetland and the Western Isles is almost equal at £3,694/head for Shetland and £3,683/head for the Western Isles while Orkney receives £3,180/head.

Local Government and Regeneration Committee Scrutiny of Scottish Government’s Draft Budget 2014/15

In its submission to this committee, Orkney Islands Council stated:

…the transparency of a three year settlement and consequent confidence in the level of funding over this period has provided a relatively stable and predictable baseline which has helped the Council to reconfigure its own service budgets to meet both our own local priorities and the joint national priorities without the need for radical cuts being applied to statutory services.

This has been achieved in the face of reduced real-term funding.

Orkney’s submission highlights the challenges ahead:

- The maintenance of a Cash Freeze in 2014/15 is welcomed and will allow the current programme of meeting local and National Priorities to continue, however, increasing demographic pressures and changes in legislation such
as Welfare reform, Self-Directed Support, and making provision for a pay award will provide significant challenges to the local authority in keeping spending levels in line with the overall funding available. Clearly an increase in resources would have been more welcome in the face of increased demand and inflation eroding the purchasing power of the Council budget.

- The Council is currently reviewing its Carbon Management Policy which sets out plans for addressing the national targets set for greenhouse gas emissions. The Council has fitted PV panels to some of its Council Housing Stock and in others it has fitted ground source heat pumps to replace solid fuel boilers, while the new Kirkwall Grammar School has a bank of PV panels fitted.

- As mentioned above, the Self-Directed Support initiative will have a profound effect on Social Care budgets. This impact will be felt most acutely in rural and island authorities, where diseconomies of scale limit ability of these areas to introduce cost reductions to existing statutory services.

- Locally, we are feeling the pressures of an extra-ordinary increase in the number of children placed outwith Orkney on the Scottish mainland, with average annual costs of around £250K per child placement.

- Additional service pressures of 2-3M are being identified this year and next over and above the current Social Care budget of £17M.

3. Views on the way that remote, peripheral and island communities are accommodated within the local government structure.

Submission

Islands, by nature, are intrinsically different. In certain circumstances, they should be looked at as distinct from rural areas. Moreover, it is not just low density of population that makes islands different (this applies to rural areas too) but also the very small absolute numbers which make any sort of economy of scale impossible to achieve. We have several islands with populations only in double figures.

In general terms, these are some of the barriers to our islands’ growth:

a) Lack of affordable access to markets due to distance and costs;
b) The average broadband speeds in island areas are considerably lower than speeds in urban areas;
c) Mobile phone services can be highly variable with frequent “not spots”.
d) Lack of access to business skills development and training opportunities.
e) Lack of access to hubs of relevant innovation due to distance and poor connectivity.
f) Lack of access to finance, similar to urban businesses.

In general terms, these are some of the challenges for service delivery in our islands:

a) Public transport is more limited, with fewer regular bus services than most parts of mainland Scotland.
b) Greater distances travelled to facilities such as GP surgery compared to urban households.
c) There are proportionally more older people living in islands.
d) Basic services, e.g. waste collection are more expensive to deliver.

**Island Proofing**

The concept of island proofing is having a broad-based islands’ awareness built into the policy thinking of all arms of Government. In effect, it means that rather than our councils having to react to policy primarily through consultative responses to proposed legislation, Government is pro-active in embedding islands issues prior to, for example, consultation.

For the Scottish Government, Islands Proofing means assessing policy options to be sure that optimal solutions to our islands areas are applied at all stages of policy development, taking account of equity and equality issues, by:

a) assessing the evidence of specific islands’ needs and circumstances at the start of designing a policy;
b) considering the options for fair impacts on the ground in islands areas;
c) where appropriate, adjusting policies or delivery.

Island Proofing was explicitly referred to in the “Asks” of Orkney Islands Council’s Single Outcome agreement 2011-14 under the heading *Island-proof Government policy*:
- Ensure funding distribution criteria do not use urban focused measures such as the Scottish Index of Multiple Deprivation
- Extend the Road Equivalent Tariff scheme to Orkney
- Address differential fuel pricing and Renewable Transport Fuels Obligation issues
- Secure a reform of the Common Agricultural Policy and Common Fisheries Policy from 2014 which will better support vulnerable island areas.

Notwithstanding this, island proofing has never been formally implemented.

**EUROPEAN DIMENSION**

We believe that there are also opportunities to explore in relation to increased
representation in Europe for the Island Councils. Many of the issues being negotiated by the Our Islands-Our Future Campaign are underpinned by European Union treaties; the most prominent being the principle of subsidiarity which aims to ensure that decision-making is taken as close as possible to the citizen. A key argument is that the Island Councils should have formal representation in the policy-making process in Europe to ensure that the best interests of the Islands are considered. An area of interest is the need to gain influence to protect fishing and agricultural interests.

Moreover, special enhanced provision is not unusual in Europe: some Islands have direct representation. We feel that there should also be provision for the special interests of the Islands. While all Islands experience the same issues, the impacts on our islands are more acute as they are ‘remote islands’.

The special circumstances of islands have been recognized in the Treaty of Lisbon.

Article 170 (ex 154) on Trans-European networks: “(the community) shall take account in particular of the need to link island, landlocked and peripheral regions with the central regions of the community”; and

Article 174: “particular attention” shall be paid to certain types of regions, amongst which those that “suffer from severe and permanent natural or demographic handicaps” such as island regions, mountain regions, or northernmost regions with a low population density”.

We are conscious of our lack of representation and feel we need a more prominent role in how European matters are shaped.

4. Views on the level of legal flexibility and autonomy from central government that local government enjoys.

Submission

First Minister Alex Salmond MSP confirmed that the Scottish National Party supports ‘subsidiarity and local decision-making’ during the course of the Lerwick Declaration. He confirmed that island communities should have the “maximum degree of local decision making”.

It is well recognized that “one size does not fit all”. UK and Scottish governments should devolve sufficient powers to the island authorities to implement or opt out of international and national measures as appropriate.
It is also well recognised that there is no good reason to stop the devolution of powers at Edinburgh. We consider it appropriate that devolution of powers should not cease at local authority level. We recognise that there is scope for further devolution to each islands’ communities.

Applying the principle of subsidiarity will give the three islands group the opportunity and responsibility to provide the services and carry out the functions appropriate to their communities. In addition, application of the principles contained in the European Charter of Local Self Government will give the three islands group the power to develop initiatives and introduce strategies to meet the special needs of their areas and ensure sustainable economic growth.

Orkney has experience of operating under local legislation already. The powers under The Orkney County Council Act 1974 are extensive. Orkney Islands Council has demonstrated through its reserve fund how it can directly benefit the local community.

The debate in relation to the powers and duties of Islands Councils in Scotland is not new. The report of the Committee of Enquiry and Functions and Powers of the Island Councils of Scotland chaired by Sir David Montgomery (the Montgomery Committee) was submitted to the UK Parliament by the Secretary of State for Scotland in April 1984.

The key principles established by the Montgomery Committee are:

(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.

From an historical perspective, for more than 35 years there have been proposals for increasing special provision for the islands, but little has happened for our Islands Councils.

We consider that the Scottish Independence Referendum is an appropriate time to say: what about our Islands?

We consider that our Local Councils should have the powers in order to be innovative and develop local democracy. We consider that centralisation is steadily and steadfastly destroying the essence and effectiveness of local democracy.

Powers granted over harbour areas, (Orkney County Council Act 1974 and the Zetland County Council Act 1974) have allowed Orkney and Shetland to profit respectively from the activities of the Flotta Oil Terminal and Sullom Voe. It has enabled Orkney and Shetland to develop their respective oil reserve funds.

This devolution of powers was beneficial – not just for Orkney and Shetland, but for Scotland as a whole. For decades these funds supported capital projects and discretionary services that might otherwise have not happened. However, new
revenues are no longer adding to the funds. The short term benefits are now severely constrained. Notwithstanding this, it has still allowed Orkney to invest in its future economic prosperity through recent harbour works to support renewables, with spin-off benefits for tourism and fishing.

Orkney has invested £12M in harbour works to support marine renewables over recent years. The National Renewables Infrastructure Plan (to prime 11 ports and harbours for offshore wind) has raised only £15.4M towards a £253M target by 2014. Through comparison, it is evident that Orkney has made a huge contribution towards national targets. This has been achieved through the historic devolution of powers and Orkney’s own vision.

Equally remarkable is that over the last four decades much of the UK’s oil has quietly, efficiently and uncontentiously flowed through the oil ports operated by the Islands Councils.

This demonstrates the potential of what devolving powers to the islands can do. The islands councils can do great things given the opportunity.

However, at present, the scope that local government has to develop projects and prioritise spending is very limited.

In general terms, we believe that we should have greater financial autonomy and this could be achieved through:

- a guarantee of sufficient funding;
- a fair and appropriate distribution mechanism of central funding;
- fiscal and regulatory powers to stimulate sustainable development in the islands; and
- optimal discretion and flexibility in respect of fiscal and regulatory powers.

Orkney Islands Council believes that the Scottish Government should respect the diversity of each islands area and empower each Council to determine the model of the Single Public authority for their respective area.

The SPA is considered a compelling proposition in the context of the current economic downturn linked to public sector cuts. Orkney Islands Council can demonstrate a higher vulnerability to the cuts owing to a heavy dependence on public sector jobs. Efficiency savings are becoming harder to find and the cuts are being felt more directly and acutely by the public.

The pooling of resources or sharing of services is the natural direction of travel to optimise efficiency. However, this is not possible for the Islands councils to the same
extent as with mainland councils. The Islands do not have co-terminous neighbouring councils. They are unique in this respect and can legitimately be regarded as a special case, unique in their own circumstances and distinct from mainland councils.