



OFFICIAL REPORT
AITHISG OIFIGEIL

DRAFT

Rural Economy and Connectivity Committee

Wednesday 20 September 2017

Session 5



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RURAL ECONOMY AND CONNECTIVITY COMMITTEE
25th Meeting 2017, Session 5

CONVENER

*Edward Mountain (Highlands and Islands) (Con)

DEPUTY CONVENER

*Gail Ross (Caithness, Sutherland and Ross) (SNP)

COMMITTEE MEMBERS

*Peter Chapman (North East Scotland) (Con)
*John Finnie (Highlands and Islands) (Green)
*Rhoda Grant (Highlands and Islands) (Lab)
*Jamie Greene (West Scotland) (Con)
*Richard Lyle (Uddingston and Bellshill) (SNP)
Fulton MacGregor (Coatbridge and Chryston) (SNP)
*John Mason (Glasgow Shettleston) (SNP)
*Mike Rumbles (North East Scotland) (LD)
*Stewart Stevenson (Banffshire and Buchan Coast) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Stuart Black (Highland Council)
Malcolm Burr (Comhairle nan Eilean Siar)
Andrew Fraser (North Ayrshire Council)
Norman A MacDonald (Comhairle nan Eilean Siar)
Liam McArthur (Orkney Islands) (LD)
Fergus Murray (Argyll and Bute Council)
Dr Audrey Sutton (North Ayrshire Council)

CLERK TO THE COMMITTEE

Steve Farrell

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Rural Economy and Connectivity Committee

Wednesday 20 September 2017

[The Convener opened the meeting at 10:01]

Decision on Taking Business in Private

The Convener (Edward Mountain): Good morning everyone, and welcome to the 25th meeting in 2017 of the Rural Economy and Connectivity Committee. I remind everyone to ensure that their mobile phones are on silent. We have received apologies from Fulton MacGregor.

The first item on the agenda is a decision on taking business in private. The committee is asked to consider in private item 3, which relates to the proposed aquaculture inquiry. Do members agree to do so?

Members *indicated agreement.*

Islands (Scotland) Bill: Stage 1

10:01

The Convener: Item 2 is the second evidence session on the Islands (Scotland) Bill. There will be two panels. I welcome the first panel, which consists of Fergus Murray, who is head of economic development and strategic transportation at Argyll and Bute Council; Andrew Fraser, who is head of democratic services at North Ayrshire Council; and Dr Audrey Sutton, who is head of connected communities at North Ayrshire Council. I remind witnesses, in case they have not given evidence before, that they do not need to push any buttons on their console—it will all be done for them.

We will go through various themes, which will be led by members. Anyone who wants to respond should catch my eye, and I will try to bring you in. If you all look the other way, I will try to bring in the one who does not look away quickly enough.

On that basis, I ask John Finnie to start.

John Finnie (Highlands and Islands) (Green): Good morning, panel. I thank you for your written submissions. First, is the bill's overall intention in line with expectations?

Andrew Fraser (North Ayrshire Council): Very much so. The broad view is that it accords with the general direction of travel of the Christie commission with regard to subsidiarity and locality planning. It is an extension of that approach that targets the particular needs of islands. The broad direction of the bill is absolutely in line with expectations. I am conscious that the bill is quite broad, but it is the starting point and North Ayrshire Council very much supports its aims.

Fergus Murray (Argyll and Bute Council): Argyll and Bute Council welcomes the bill and a lot of its specific provisions. There is some concern—I am reflecting the views of our island communities, which we consulted before coming to the committee today—that the bill could have gone a bit further and addressed some of the issues that the island communities may have expected it to cover, but there is an understanding that those issues will perhaps come in later through the national plan or other aspects of the process.

The Convener: Does John Finnie want to follow up on that?

John Finnie: Audrey Sutton wants to come in first.

The Convener: I am sorry, Audrey—I took it that your response would be in line with Andrew Fraser's comments, but perhaps that was wrong.

Dr Audrey Sutton (North Ayrshire Council):

Like Fergus Murray, I want to balance the views of our island communities with the views of our own area. I am certainly in line with his view, and with Andrew Fraser's comments, that the bill recognises the considerable work that we did as part of the consultation on provisions for a future islands bill. That work stood us in good stead, and the elements of the bill that have emerged from it feel right to the islanders. However, as Fergus Murray said, the devil will be in the detail, and the islanders would very much have liked to explore more of the detail than is available to us all at this stage.

John Finnie: Will the bill as drafted lead to greater empowerment for island communities?

Dr Sutton: The sense among our island communities is that it will strike a delicate balance between the national islands plan, the role of local authorities and the role of the island communities. Again, I stress that the islanders are very keen to be involved in the debate as it continues. The potential is there in the bill, but the detail will be important in terms of the relationship between, for example, single outcome agreements and local outcomes improvement plans.

As Andrew Fraser mentioned, locality planning is particularly important to us in North Ayrshire. We have co-produced the plan with our communities as part of our scheme of decentralisation, and we have reached a powerful place in terms of our sense of locality planning. We need to make sure that all the elements respect each other.

Fergus Murray: The communities are very hopeful that the bill will enable that to happen. They are a bit wary of top-down decisions coming through the bill, and of control coming from Edinburgh. They are looking at how powers can be delegated closer to their communities; that aspect came across strongly when we spoke to some of the island communities.

As is usual in Argyll and Bute, there is a lot of variation. Some islands are very strong on what they want to control, while others are a bit more relaxed about it. However, there is not so much a fear but a general apprehension that the bill will be another way of placing more controls on island communities.

John Finnie: I want to ask about the chronology and the background to the bill. The three island authorities face a range of challenges that are clearly different from those that your authorities face. Were the mainland authorities with inhabited islands brought into the process quickly enough? Would you have preferred to have had greater input at an earlier stage?

The Convener: Audrey Sutton did not look away quickly enough—she looked like she was about to come in.

Dr Sutton: Thank you, convener.

To some extent that depends on the relationships that exist locally. With regard to hearing the voices of the island communities, I feel—I am sure that Fergus Murray takes the same view—that our island communities very much feel that they have a voice. On Arran and on Cumbrae we already have in place our locality planning partnerships and our health and social care partnerships, which are contiguous. We also have the Arran and Cumbrae economic fora and economic plans. The islands feel that their voices are very well reflected in the bill.

On the point about the local authorities, there is perhaps a sense that we are less experienced in the process of considering island proofing and the political agenda around the islands, although that has always been central to some of our thinking. We potentially feel less experienced in considering the issues.

The Convener: Does Andrew Fraser want to add to that?

Andrew Fraser: There was an appreciation that the three island councils were trying to do something that would benefit all the councils that had islands. We engaged informally with the island councils and had an overview of their aims, and there was nothing in what they were trying to do that prejudiced our position as combined mainland and island authorities.

Harking back to an earlier point, it is important to recognise that islands are obviously different, and the national plan and national guidance should not try to categorise them as one type. There are places such as Cumbrae, from which one can commute daily to the centre of Glasgow. That is very different to the situation on some of the more remote islands, but equally the islands will all share some commonalities such as transport links in particular.

Fergus Murray: There is a sense in Argyll and Bute Council that we came to the party a little late. There are a number of reasons for that, which do not necessarily stem from us. There may have been a lack of full understanding of the significance of the discussions in the early stages. Our council also had other priorities, given that it has to deal with a range of issues. However, we very much feel that we are catching up, and we recognise the importance of the bill. We are strongly of the view that we are playing a full part in the process, and that is certainly reflected in our communities. What has come from our consultation with our island communities is a sense that we have to come to the party a bit late

and that that may be why the bill has been drafted without taking account of Argyll and Bute.

John Finnie: Do you feel part of the party now? Are you fully included?

Fergus Murray: Very much.

Dr Sutton: Yes.

The Convener: That seems to be nods all round.

Rhoda Grant (Highlands and Islands) (Lab): The bill covers island and also mixed island and mainland council areas. Where do the challenges lie? You both represent council areas that have islands, rather than island councils. Will it be more difficult for you to meet the aspirations of the bill? Are there specific challenges for you, or does the bill deal with that adequately?

Andrew Fraser: It deals with it adequately if we look at it through the lens of locality planning and subsidiarity. Essentially, the bill is about the Christie objective of empowering islands and about community planning partners working together with their communities to target priorities and objectives specific to the needs of those individual islands. In many ways, it is no different for other communities in our area. For example, North Ayrshire split our area into six individual localities, all of which have their own demographic profile and individual needs. I do not think that the focus of the bill on Arran or Cumbrae in any way detracts from a similar locality planning process that deals with our mainland areas, which, in our case, often have more deprivation.

The Convener: Does Fergus Murray want to come in on that?

Fergus Murray: Yes, from our point of view it certainly makes the consideration of the close relationship between islands and remote peninsulas more complex. The islands have picked that up because of concern that there may be the potential to create inequalities between those communities. Actually, the islanders are talking about it because the different nature of our islands could potentially create inequalities between different island groups. There is a need to take care with how the bill is taken forward and the decisions that are made so that it does not do something that it does not want, which is to create inequalities within close lying communities that have extremely strong relationships with each other. The island communities in Argyll and Bute strongly recognise that and wish the bill to take full account of that as it moves forward.

Rhoda Grant: Given the fact that, under the bill, the island councils probably have a stronger negotiating position with the Scottish Government to gain devolved powers, will they not face the same issues within their island groups? There

is always a bigger island and some smaller islands, and the smaller islands may have the same aspirations as arise in the mixed mainland and island council areas, in that they would be looking at the centre and saying that it is not just about devolving powers to the island council, but from that council to the other islands. Is that not the same or are there specific challenges because of the geography?

The Convener: Fergus, I am going to let you answer. You were ready for that one.

Fergus Murray: I am conscious of who is in the audience. I totally recognise what Rhoda Grant is saying. I lived in Shetland for 11 years and there was a different relationship between the mainland of Shetland and some of the outer islands—there was actually a difference between the town of Lerwick and the rural community—but I think that there may be more specific issues for remote peninsulas. It may be more complex in Argyll and Bute than in the island communities. I cannot speak for the island councils, only for Argyll and Bute. People are concerned that whatever happens in relation to additional powers or delegation of control for the islands—which is welcomed—does not somehow disadvantage the remote rural areas that lie next to them.

10:15

Andrew Fraser: That is not as much of an issue for North Ayrshire as it is for Argyll and Bute, because North Ayrshire has two, distinct islands: Great Cumbrae and Arran. The issue is very much about subsidiarity. If there is a genuine commitment to the principle of subsidiarity, from everyone who is engaged, that principle will apply equally to the larger islands and the smaller islands. I think that the bill promotes the principle of subsidiarity, by recognising the needs of island communities and enabling them to be addressed.

Dr Sutton: An underlying issue is community capacity and the willingness and determination of communities to demand more subsidiarity. We can probably say that the social capital and capacity that our island communities have, partly because island communities need to be resilient, will define communities and their ask of local authorities or the Scottish Government. A lot of this will be about capacity and relationships. We can determine principles of subsidiarity or locality planning, but a lot will depend on what comes through from the communities themselves and how we manage the relationships.

In North Ayrshire we have tried to do locality planning, because that is a powerful driver for us. We have tried to ensure transparency and visibility across the whole local authority area and an understanding of reciprocity in relation to

prioritisation, so that our urban communities understand the issues that the island communities face, and vice versa. There is an issue to do with capacity and managing local circumstances, which is separate from the theory.

Rhoda Grant: Are you saying that the bill's aims are okay, but how island communities will be able to implement and live up to them will depend on the fabric and economy of the community and the know-how of the people who are part of it? I guess that the size of a community will be an issue in that regard.

Dr Sutton: That is certainly a factor. The support that communities are given to maximise the potential of the bill will be an important factor, too.

Rhoda Grant: The witnesses have talked about a sense of being left behind by the our islands, our future campaign and coming to the party too late in the day. Why was that? Did the mainland councils with islands feel that the campaign was not for them, or did the island councils steal the march on you?

Dr Sutton: I think that the point that I made—perhaps badly—was that in North Ayrshire we were fully engaged in the our islands, our future work, which set the context for our continued involvement in the next stages.

Andrew Fraser: Also, it is important to recognise that the boundaries proposals in the bill came from Arran, as I understand it. They came out of a meeting between Arran community groups and the minister. It was not a case of our being cut out in any way.

To be frank, the three island councils were doing such a good job that we did not want to prejudice what they were doing.

The Convener: I will bring Liam McArthur in on that point.

Liam McArthur (Orkney Islands) (LD): It is worth reflecting that our islands, our future was born out of the recognition that the three island authorities often did not play to their strengths in terms of what united them; too often, there were opportunities to play one off against the other. That was driving a lot of the process, initially.

I was interested in Dr Sutton's point about the different capacity there is in islands. Will the bill need to provide safeguards for island communities where there is not the appetite or the capacity to take on some of the powers and responsibilities that might flow from the bill? Do we need to avoid a situation in which power and responsibilities are simply foisted on communities and they are told to get on with it, which might set them up for failure? Unlocking the potential of islands is one thing, but

that potential needs to be gauged by the island communities themselves.

The Convener: Technically, that requires a yes or no answer, but I am sure that all the members of the panel will want to flesh out their answers a wee bit. I would appreciate it if you could keep your answers short.

Dr Sutton: The bill's links with the Community Empowerment (Scotland) Act 2015 are one of its notable features. In places, the spirit of the two documents feels very similar. If we look at them in parallel, we see that, from the point of view of the advantages that they offer and the support and capacity building that are inherent in the 2015 act, they complement each other.

The Convener: Andrew, would you like to add to that?

Andrew Fraser: Very briefly. I think that the guidance will need to support empowerment and avoid the risk of imposing minimum standards, which might in turn be viewed as the imposition of a one-size-fits-all approach. Given the islands' diversity, that would not work.

Fergus Murray: I agree. Given the range and size of our islands—some have very few people on them, some are more isolated than others and some have relationships—it is essential that there are some safeguards to help to empower communities and give them the experience and skills to take full advantage of the bill.

The Convener: I ask Jamie Greene to move us on to the next theme.

Jamie Greene (West Scotland) (Con): Good morning, panel. I have three very distinct questions to get through, so please do not feel obliged to answer every one of them.

My first question is about the strategy of the bill, which is to require a national islands plan to be laid before the Parliament. Do you think that that is the best approach to enable the bill to empower island communities? In other words, do you think that the strategy of providing for a national islands plan rather than putting detail in the bill is the right approach?

Andrew Fraser: It is important to set out the overall strategy and to link it to community empowerment, the work of the Christie commission, locality planning and so on. From that point of view, a clear statement of Government strategy is essential. The difficulty with including precise provisions in the bill relates to the islands' diversity. I view the bill as the starter for 10. It is a developing journey. I cannot think of anything better than having a national strategy. I am sure that others might have some reservations, but I cannot propose any alternative.

The Convener: Fergus, you were nodding. Do you agree with that?

Fergus Murray: I think that there is strong support from our communities for a national islands strategy, but they believe that it needs to come down to Argyll and Bute level, or even to island level, so that it can deal with the different issues that islands have. It cannot be a one-size-fits-all approach.

Our communities welcome the idea of a national islands strategy with key themes, but they also want provision that is broken down to a more local level. They have made that quite clear.

Jamie Greene: That leads nicely on to my next question. The feedback that the committee got in one of the sessions on our visit to Mull was that the bill lacked a specific objective. There was a feeling that although it would allow a national strategy to be introduced, it had no specific aims or objectives. Do you have a view on the bill as it is currently drafted?

Dr Sutton: The view that we got from our island communities was pretty much in line with the one that you have described. I think that it is important to separate out in the general principles of the bill the approach that is driving it and the issues that might be tackled by it. The underpinning view of the island communities is that the issue of a top-down approach can be overcome through co-production of a national strategy. The vision is certainly clear, but the objectives are less clear. If they could be co-produced, I think that there would be huge buy-in to developing the appropriate approach.

Jamie Greene: To clarify that, should the objectives be in the bill or the strategy?

Dr Sutton: The island communities would be reassured to some extent if some of the objectives were in the strategy, so that there would be a clearer understanding of what we are trying to achieve nationally.

Fergus Murray: I do not have a clear view on whether the objectives should be in the bill. Our island communities recognise that the bill is an enabler. They are very keen to see the key themes and aims of the national plan and to be involved in framing it, so that as the plan is developed a wider range of community views can be included to guide the key principles behind what we are trying to achieve in those communities. That is the feeling that has come through from our consultation.

Jamie Greene: It is clear that there is some commonality in the issues that island communities face—and have faced for a long time—with things such as transportation, affordable housing, access to mainland healthcare services, social care and

so on. We have had lots of anecdotal evidence of that.

When I questioned the Scottish Government bill team during our evidence session last week, Ian Turner responded to the same question about whether the bill should have more detail by saying:

“The bill could contain a list of issues that must be included in the islands plan.”

He also said:

“I think that you are right to expect transport and digital connectivity to be in the plan”.—[*Official Report, Rural Economy and Connectivity Committee*, 13 September 2017; c 8.]

It comes back to my question about whether the bill lacks detail about the plan—not necessarily what the plan is, but what should be in it. As the bill progresses through its various stages, is there an opportunity for us to ensure that it lists certain areas of life that must be addressed by the bill or the strategy?

Dr Sutton: I think that our island communities would be disappointed if at least some of that detail was not enshrined in the approach.

The Convener: You are all nodding.

Fergus Murray: I agree. I think that there is quite a long list of overarching issues that are clearly identified and could be included, as long as those are not the only things that would be considered. There needs to be room for flexibility and for issues that we have not thought about, because specific communities have strong views on different things. I agree that there is a list of key things that should be included, such as digital and transport connectivity.

The Convener: Can I push slightly on that to clarify things for the committee? Do you think that the island communities will be frustrated if those things that you believe should be in the plan are not included, which might undermine the whole point of the plan?

Fergus Murray: Our community has expressed a bit of frustration about the lack of detail in the bill. People thought that that might be reflected on and dealt with in the national islands plan. However, if it could be dealt with before that, that would reassure people that some of the critical issues that they face—and have faced for generations—can be dealt with through the bill.

The Convener: I am sorry, Jamie—I cut across you. Do you want to push that?

Jamie Greene: No. You made a good point, convener. The difference lies in whether that non-exhaustive list of items that should be addressed in the plan goes into the plan or is referred to in the bill as needing to be in the plan. My point is whether the bill should specifically, although

perhaps non-exhaustively, list issues that the plan should address but currently does not.

The Convener: Two of the witnesses are nodding. Andrew Fraser is looking pensive. Does he want to comment?

Andrew Fraser: I suppose that it is partly a matter of thinking about the purpose of the national islands plan. To me, that is probably twofold. One purpose is to bring strategic direction to national policy and agencies, and I think that it would be useful for the bill to include a list of the national issues that the islands plan should address. In addition, the national plan should encourage a process whereby local authorities and community planning partners would adopt a data-led approach with their communities to identify the needs of specific islands and to agree and take forward priorities. We need a process that not only captures the national issues but ensures that the particular needs of islands are addressed in a local context.

10:30

The Convener: That brings us to the next question, which is from the deputy convener, Gail Ross.

Gail Ross (Caithness, Sutherland and Ross) (SNP): Good morning, panel—it does indeed. I want to ask about the level of consultation that you expect in relation to the islands plan. Is the proposed timetable of one year after the act comes into force realistic?

The issue of top-down decision making was raised. When we were on Mull, as has been mentioned, the members of our group told us that they would like to be statutory consultees in all the decision making that goes on. The local authorities will be consultees, of course. How far down into the community would you like the consultation to go?

The Convener: There are quite a lot of questions in there. I will let Fergus Murray kick off.

Fergus Murray: The island communities have expressed a very strong view through our consultation that as many people as possible in the islands group should be consulted as part of the process as we move forward. There is a very strong view that young people should somehow be engaged in the process, because the communities are conscious that young people are struggling to get into it. There is some debate around how practical such involvement would be, but there is a very strong view from our communities that island people must be an integral part of the process as it goes on.

The timescale is very ambitious for developing a plan that is robust and deals with the issues that

the islands face, considering the time that is taken to develop land use plans. A lot of the process is about having realistic and meaningful engagement with individual stakeholders, groups and bodies. That point must be highlighted. As I said, there is a strong view from the communities that, if the bill is going to make a difference, island communities must be integral to the consultation as it moves forward.

The Convener: Are there any additional points, or has Fergus Murray covered them all?

Dr Sutton: I will add one point. The response from our island communities to invitations to be involved would be really strong. One point that emerged—this is probably quite normal—concerned the care that we need to take to engage beyond the usual suspects and outside the standard range of consultees. Community councils, for example, do not necessarily have the level and depth of engagement in all our communities that we would like them to have. There is a strong message that we need to consider consulting a range of representative groups and organisations, as well as individuals who have clear views. Locally, we have the ability to do all that, but we need to be given the time to do it.

Island communities think that the bill is the chance of a lifetime, and a once-in-a-generation opportunity. As we move forward into more of a co-production process, as Andrew Fraser described, I hope that that will not be the case, but we would rather do things properly than quickly.

The Convener: You all agree that the timescale is ambitious. We move on to Mike Rumbles, who wants to talk about another issue.

Mike Rumbles (North East Scotland) (LD): When we were on Mull, several islanders suggested to us in informal evidence that the only way to avoid a tick-box approach to the business of island proofing is to ensure that there is real consultation with the islanders themselves. The bill will place a duty on the 60-plus bodies that are mentioned in the schedule to island proof any change in policy, but the islanders told us that they were afraid that that might turn into a simple tick-box exercise. They do not want somebody sitting in Edinburgh or Glasgow, or wherever it is, saying that they have looked at how a policy will affect island X and that it is fine—box ticked. The only way to avoid that is to ask the islanders themselves what they feel about it.

Andrew Fraser: That is a good point. Similar to equality proofing, island proofing needs to be mainstreamed throughout all processes and all parts of a decision-making process. It is not sufficient for a body to make up its mind, gather evidence, get recommendations and—at the last

minute—island proof its proposal; it should think about the needs of islands similarly to how it thinks about equalities when it starts to consult and gather evidence. It would probably be helpful to have guidance on island proofing to that effect.

Fergus Murray: There has been a strong response from the local communities that it cannot be just a tick-box exercise. To them, the proof of island proofing would be real evidence of agencies working together and co-ordinating things, with real results coming out of that. They want to see specific island impact assessments being undertaken and real evidence that things are making a difference. They also want regular reports back to communities on how different initiatives and policies have impacted on those communities, whether negatively or positively. I do not think that our island communities will accept a tick-box exercise under the bill.

Mike Rumbles: That is absolutely right. I agree with what you are saying. Impact assessments will be the key to all of this, because they show the reality as opposed to a tick-box exercise. Agencies will conduct impact assessments and consult people, but that will cost money. Has enough money been allocated in the bill process? If it is not allocated through the bill, and if the assessments are going to be done properly, the cost to all those 60-plus Government organisations will be increased. Do you have any thoughts on that?

Fergus Murray: You are right in saying that it will cost money. Argyll and Bute Council highlighted the resourcing of the bill as a concern.

The Convener: Sorry—we will cover the resourcing of implementation later. I think that Mike Rumbles is driving at the cost of doing the consultation and setting up the plan.

Mike Rumbles: Yes. I am trying to get at the cost of an impact assessment that is done not by the Government but by the 60-plus organisations that will be involved.

The Convener: Maybe you could focus on that specific bit. We will come on to the financial costs of doing all the work that comes out of the bill later. The question is about the consultation and planning stage. Perhaps Audrey Sutton would like to lead on that.

Dr Sutton: This is one subset of a range of discussions that we have between local authorities and public sector bodies. It is about the alignment, principles and culture of taking into account the needs and wants of our island communities. I wonder whether, in all the island and mainland/island authorities, the requirements of the impact assessments will be very far away from what we do at the moment. Our island communities are very important to us. They are

vocal, have lots of social capital and are very much part of the fabric of what we do. In terms of considering them, it will be interesting to see how much more is required.

The Convener: We will cover the costs of the bill a bit later.

Mike Rumbles: Finance is an important aspect of it.

The Convener: We will come back to that. John Mason has some more questions on island proofing.

John Mason (Glasgow Shettleston) (SNP): We are using two phrases—“island proofing” and “island impact assessment”—and I wonder whether the two concepts are the same. If my jacket is waterproof, that suggests that no water will get through, and island proofing suggests that people on the islands will get exactly the same services as everybody else. On the other hand, an impact assessment suggests to me that the organisations are going to think about it and try to work around it, but services on the islands will always be a bit different from services on the mainland. Is that fair thinking?

Andrew Fraser: Absolutely. I would compare it to equalities. The important thing is that we think about the needs of islands when we develop and implement policy. That is not to say that we have to do what the islands might want—clearly, there will be competing issues; in North Ayrshire, for example, our biggest areas of deprivation are not on the islands—but we have to think about the islands’ needs and do an impact assessment.

Fergus Murray: I agree. I do not have anything to add.

John Mason: We have discussed what should and what should not be in the plan. What should be in the ministerial guidance about island proofing? Should that guidance be quite prescriptive, which would mean that there was a lot coming from the centre about how councils and other public authorities should operate, or should it be more flexible because the islands are so different?

Andrew Fraser: Subsidiarity is the key principle, and we should empower islands and communities, but clearly there have to be certain minimum standards to ensure that all public agencies have regard to the needs of islands. I would address the issue using those principles.

Dr Sutton: I agree. This goes back to Jamie Greene’s question. We need to inspire confidence among island communities that there is sufficient in the bill to make a difference to them. We need to achieve a delicate balance between what sits above and what is fed from below.

The Convener: I will bring Mike Rumbles and Jamie Greene back in, and then I am afraid we will have to move on to the next section.

Mike Rumbles: This follows on from John Mason's question and the responses to it. Many bills, and much of the guidance that the Government has issued over the years, say "have regard to". If the Government says that people "must have regard to" something, they just have to show that they have regard to it. I think that John Mason was asking whether the Government's advice to the 60-odd public bodies should be more prescriptive and say, "If you are going to island proof, you need to do it in this particular way," or whether we should just revert to saying "have regard to", which basically would mean that people could do anything they liked. The key will be in the guidance that the Government gives to those public bodies. Should it be prescriptive and say, "This is how you should do it," or should it just say, "You should have regard to" certain things?

The Convener: I will let one person respond. Audrey Sutton looks as if she wants to lead on that.

Dr Sutton: There is a distinction between "have regard to" and "have due regard to". We need to inspire confidence among island communities and assure them that we are serious. I hesitate to use the word "prescriptive" to describe what they expect, but certainly we would like to inspire confidence that the bill will make a difference.

The Convener: I will bring in Jamie Greene very quickly.

Jamie Greene: This is very relevant to what Mike Rumbles has just said. There is only one sentence in the bill regarding island proofing. It is in section 7, and it just says:

"A relevant authority must have regard to island communities in carrying out its functions."

Is that really island proofing? Does the bill go far enough to island proof policy? I deal with a tremendous amount of casework from people in Arran who struggle to access services on the mainland. Does the bill island proof those public services?

The Convener: I will let one person respond on that.

Andrew Fraser: I suppose that the model is equalities legislation, which forces people to have regard to the needs of people with protected characteristics. The bill should do the same for islands. That has worked for equalities, so I have no reason to believe that it will not work for islands.

The Convener: We will move on to the next theme, which will be led by Rhoda Grant.

10:45

Rhoda Grant: I have a quick question about constituency boundaries. You will see that the bill protects the Western Isles constituency boundary in the same way as Orkney and Shetland are already protected. Do you have any issues with that, or are you happy that it is in the bill?

Dr Sutton: Our island communities are of the view that they would like to support their island colleagues in their aspirations.

Fergus Murray: That is the same in Argyll and Bute.

The Convener: Okay, thank you. If Rhoda Grant is happy, we will move on to the next theme, which will be led by Richard Lyle.

Richard Lyle (Uddingston and Bellshill) (SNP): Good morning, panel. The Local Governance (Scotland) Act 2004 brought in three and four-member wards. The bill provides the Local Government Boundary Commission for Scotland with the flexibility to recommend that the Scottish ministers propose electoral wards of one or two councillors to be created covering populated islands. I have some questions about that.

What practical issues do the current three and four-member wards create, and what would be the impact of switching to one or two-member wards? What will the proposal mean for the overall work of councillors in a local authority area? How would it work? Should candidates reside on the island and, if so, how do we ensure that that happens?

The Convener: Who would like to lead off on that quite complex series of questions?

Andrew Fraser: I can lead off from a North Ayrshire point of view. A number of our island communities and councillors have said to us that someone who does not live on the island will have difficulty in knowing what happens during the evening once the ferries stop running. So many community group activities and meetings take place in the evening that it is quite difficult to keep in touch with what is happening unless you consistently stay on the island.

There is also the issue of the ferries going off occasionally and so on. For example, if there is a civil emergency such as there was on Arran a few years ago, when the whole island shut down after a snow storm, a council member who did not live there might not be on the island to support the community. That is the key issue concerning members who do not reside on the island.

As regards the impact of switching to one or two members, I am afraid to say that in North Ayrshire we have a specific issue with the bill. It clearly amends the provision that there can be one or two

members, but it does not amend the provision in local government legislation that provides that there has to be a certain ratio of electorate to councillors across the entire local authority area. For example, in North Ayrshire, the current ratio is 3,000 electorate per councillor. That ratio would remain the same once the bill is implemented, meaning that Arran, which has a population of about 3,800, would end up with one councillor rather than the two resident councillors that it currently has, and Cumbrae, with a population of 1,100, would end up with no councillors. Had Cumbrae been located in the Western Isles or Orkney, for example, with their quota of a councillor per 800 of electorate, it would have ended up with its own ward.

It is important to recall that that change was originally driven by the Arran community, which met Derek Mackay when he was Minister for Transport and Islands, and it was included in the consultation paper. I suspect that the Arran community will be surprised to learn that the impact of the change is for the number of their resident council members to be reduced from two to one.

As will probably be obvious from our consultation response when it comes, we think that that provision needs to be changed to allow the Local Government Boundary Commission to set a ratio for individual islands that is different from that applying to the mainland of an authority.

Richard Lyle: When I was a councillor, I found that the Local Government Boundary Commission did what it wanted and never listened to what we wanted. However, I will get away from that.

You mentioned the two local members on Arran. Should it be two for each island or should it be one? We talked about the consultation, ward sizes and structure. I do not know whether your councils have area committees. We are talking about relating decisions back to the islands and making people feel that they are part of the system. Should the islands have a local area committee, which could possibly have two island councillors plus other people?

The Convener: I ask Fergus Murray to answer that, to give Andrew Fraser the chance to recover his voice.

Fergus Murray: The merits of island councillors was an area of intense debate among our island communities, and there were very mixed views. However, there was strong feeling that island communities need strong representation—that was a definite.

We have four area committees, on a geographical split. Some include islands and some do not. At the moment there are 14 councillors in Argyll and Bute with island interests through the

multimember ward system. If the proposal in the bill went through, maybe only seven of the 33 or so councillors would have a direct island interest. There was a concern that that might be counterproductive, although there is a recognition that those councillors would concentrate on island issues and would not have to take mainland issues into account.

Another big feeling was that it is good that councillors on the mainland who represent an island can, if they have a strong connection to the island, smooth things out between the two communities, with regard to their concerns and the issues that they face. There is strong support for recognition of that.

To have an islands-only area committee in Argyll and Bute would be impossible, because it would cover an area from Bute to Tiree to Colonsay, which have massively different issues. There are common issues, but when we mapped the issues that our communities face, we found that they are incredibly diverse. Some islands are suffering from major depopulation and others are dealing with tourism booms. Therefore, I am not sure whether such an area committee is workable.

Our message is that the situation is very complex. The islanders are very aware that any changes could have unintended consequences, so they must be taken forward very carefully.

The Convener: I will bring in John Mason and then maybe get the other two panel members to comment.

John Mason: My question ties in with that line of questioning and with what Fergus Murray just said. Is there potential for a bit of tension between mainland councillors and island councillors? If an island councillor is covering 3,000 people in a relatively compact geographical area and a mainland councillor is trying to cover, in effect, 12,000 people in a multimember ward over a very spread-out area, does that create an inconsistency that might be resented?

Fergus Murray: I would not use the word “resented”, but there are tensions in the practicalities of representing areas. We debated that when the Local Government Boundary Commission for Scotland was considering changes in Argyll and Bute to do with our sparse population. The area that was being looked at was enormous and councillors could have been dealing with up to 26 community councils. How would a member attend those? When you throw in the island dynamic, which involves things such as having to stay over, it becomes extremely difficult.

There is recognition locally that there is a need for tweaking, as some island groups have no representation, but there is no need to reinvent the

entire wheel of democratic representation in the Argyll and Bute area.

The Convener: I want to move on to another couple of areas, but if Andrew Fraser or Audrey Sutton would like to add a brief point, I would be happy to hear it.

Richard Lyle: The question that has not been answered, although Fergus Murray touched on it, is: if we have island councillors, should the number of councillors in a council area go up?

Fergus Murray: There is potential for the number of councillors to increase to ensure valid representation in certain areas. The communities were very wary of the possible implications of an increase in the number of island councillors if that meant that there would be fewer councillors for the mainland. Given the size of the geography that we are talking about, it is challenging for councillors to get around. In Lorn, for example, councillors have 16 community councils to get round, which is a challenge for any councillor.

Andrew Fraser: To an extent, there are always tensions. For example, North Ayrshire Council has a single quota of 3,000 people per councillor. Mainland members have a much smaller area to represent, but it might include huge areas of deprivation, whereas the member who represents Ardrossan and Arran represents a huge area of rurality, which is not taken account of in their quota. Those tensions already exist.

The key to the changes is to allow the Local Government Boundary Commission for Scotland to set different quotas that aim to meet the aspiration that island communities can have their own ward, but whether that is a one-member or a two-member ward boils down to sheer numbers.

The Convener: We will move on to the next topic.

Peter Chapman (North East Scotland) (Con): Good morning, folks. I want to explore the marine development provision in the bill. The bill provides a regulation-making power for the Scottish ministers to establish a marine licensing scheme for development activities in the Scottish island marine area. That would require a person to obtain a licence from a local authority. As local authority representatives, do you agree with the bill's introduction of that regulation-making power? How could it be used in practice?

Dr Sutton: Marine licensing is a powerful issue in the islands. We are in a slightly strange position, in that Cumbrae is 2 miles away from the mainland. The 12-nautical-mile zone and how it might work have been a key area of discussion for us.

From a local authority perspective, again, the devil will be in the detail. There needs to be clarity

on the relationship between the national marine plan and the regional marine plan. North Ayrshire is part of the Clyde marine plan. We have many interest groups in and around the islands. The local authorities have specific roles. We believe that the interface between each of those organisations and the various approaches will be key to reaching a definitive agreement about whether what is proposed is a good thing or a bad thing. Again, we need to be involved in how the system works through co-production.

The organisational requirements for local authorities have been addressed separately in the recognition that additional resources will be required, for example for the marine licensing agency. To an extent, that has been addressed, but the detail is not clear. The message that has regularly come back to us is that we need to understand more about the intention.

Fergus Murray: I am reflecting the views of our island residents when I say that, overall, in all the communities that we consulted, there was a general sense of disappointment about the proposed powers in the bill. In addition, people were fearful that another layer of bureaucracy might be introduced and that another decision-making process would be taken away from communities. There was a lack of knowledge about what the proposal means.

The added complication in Argyll and Bute is that the island communities were a bit worried about whether inequalities would be created with the remote peninsulas that are nearby. They wondered whether tensions might be created between communities. There was a bit of apprehension about that. A concern about inequalities emerged strongly from the island communities. They were not sure what the provision means, and there was a feeling that some of the most important aspects had been left out.

Peter Chapman: At last week's meeting, I asked whether fisheries would be involved, and the clear response was that the measure is nothing to do with fisheries. We also have to respect marine protected areas. There is a real concern about what the measure means in practice. Do local authorities expect to take the licensing powers when they become available?

11:00

Andrew Fraser: I echo the points that have been made that the devil is in the detail. I am conscious of the resource issue for local authorities. North Ayrshire Council does not have boats, so we would end up having to hire to regulate. We would need to look into that in depth.

Fergus Murray: Argyll and Bute has similar issues with regard to the unknowns of what the powers would mean for us as an authority. We would not say no to the powers but, as we consider them, we will need to know the implications for the authority and our communities.

Peter Chapman: You said that you have consulted with your island communities, and the message that came back is that people need to know a lot more about what the bill means. Do you accept that that is the result of your consultations to date?

Fergus Murray: That result is clear, and it will be followed up in what we write to you. The uncertainty comes across loud and clear about such genuine issues as inequalities and what that means.

The Convener: I am conscious that I did not give Audrey Sutton a chance to respond.

Dr Sutton: Thank you, convener. I was going to introduce the issue of the proportionality of the licensing approach. For an authority such as North Ayrshire, the number of related discussions and applications may be relatively small at times—we have reviewed that issue with our colleagues in planning. Could there perhaps be a regional approach, as opposed to necessarily a single-authority approach? That question may be worth considering, as it has come up in discussions internally and with our communities.

The Convener: Thank you. I will move on to John Mason for the final section.

John Mason: The final area, as usual, is the financial memorandum. Are the administrative costs in the memorandum realistic? Would the costs be the same or different for different kinds of authorities?

Dr Sutton: As Fergus Murray said, our written response will go into that area in more detail. I think that there may be a distinction between authorities with islands and island authorities. It is not that there is less of a focus on islands in our authority at present, but the proportion of officer time that will be required to be spent on island matters, including the impact assessments, may be proportionately greater in the early stages. That is not to suggest that the culture and ethos are not there, but there could be a question around the time required, so we suggest that the memorandum is possibly light on that cost.

Fergus Murray: We have clear concerns about the potential resources impact on the authority. It is an unknown, and we are struggling to find out the number of licences issued and the cost of doing that. We are resource-challenged at the moment, and anything that adds to resource issues is of concern to the authority.

John Mason: The financial memorandum says that Shetland Islands Council deals with only seven licences per year, which suggests that there would not be very many, but there is a dramatic difference in the fees that could be charged, from £57 to £33,000. I struggle to know whether those are realistic figures. I note the point made about considering a regional approach. Are there any thoughts specifically on the marine licences?

Andrew Fraser: This discussion emphasises that we are at the start of the journey; naturally, that is what the national islands plan and the impact of island proofing is about. It is difficult to quantify the costs, but I echo Fergus Murray's comments that, in these cash-strapped times, with matters probably getting even worse, there are no new resources available.

John Mason: The financial memorandum also mentions duplication, because people would still need to apply to Marine Scotland as well as to the local authority. Is there potential for the local authority and Marine Scotland to work together on the licensing, or have you not got that far yet?

Andrew Fraser: We have probably not got that far but, ultimately, there is that potential. It is fair to say that our island communities, certainly in North Ayrshire, want more control. They are concerned that national bodies will not have regard to their issues so, from their point of view, anything that brings control more locally is better, but that must be balanced with issues of cost, resource and efficiency.

The Convener: We are told that coming up with islands plans for the inhabited islands will not cost very much, considering the amount of money that we have. We are also going to island proof against future considerations that may go against the islands. Are you concerned about the costs of delivering island proofing and about who will meet those costs, or are you relatively relaxed that it is all going to come from central Government as part of the bill?

Fergus Murray: We are very much concerned about that. If there is a meaningful plan that addresses the issues that islanders want to see addressed, it must have resource implications. The authority and even the island constituents have concerns about where those resources will come from and whether that will impact on other aspects of our communities.

Andrew Fraser: We are probably more relaxed with the high-level principles of the bill because they fit with what we have been trying to do in North Ayrshire through locality planning. To be frank, if the bill had not been introduced, we would be on that journey anyway. However, as the process moves forward, the devil will be in the detail.

Dr Sutton: To go back to Jamie Greene's point, we are all here to do the very best that we can for all our residents, whether they live on an island or not. There is no doubt that the issues around the work that we do with the island communities are mainly resource based. That is to do with proportionality and access to specialist services, which are expensive. It is to do with things that cost money so, in order for us to make the greatest difference to our island communities, resources have to be considered.

The Convener: Thank you. That is a good place to draw the session to a close. I thank you all for your evidence on this very important bill. I suspend the meeting briefly to allow for a change of witnesses.

11:07

Meeting suspended.

11:12

On resuming—

The Convener: We continue item 2, which is evidence on the Islands (Scotland) Bill. I welcome our second panel. Stuart Black is director of development and strategic transportation at Highland Council; Norman MacDonald is convener of Western Isles Council; and Malcolm Burr is chief executive of Western Isles Council. The first question is from John Finnie.

John Finnie: I will kick off with the same series of questions that I asked the previous panel; I know that two of you were present for that. First, does the bill's overall intent match expectations?

Malcolm Burr (Comhairle nan Eilean Siar): Yes, it largely does. You will have noted in our submission a few points of detail—on island proofing in particular—that we would like to be clarified, to say the least. In general, however, the bill is an enabling bill that forms part of the community empowerment agenda and the review of local governance agenda. Most important, it is a key element of the our islands, our future campaign that we have been running with Orkney and Shetland, which is about ensuring that the islands have a playing field that is as level as possible; that structural disadvantage is diminished; that, at a time of change in public sector delivery and structures, the islands have their place and a clear place at the table; that our needs are recognised; and that the appropriate administrative and political mechanisms are in place to ensure that all that comes about.

Stuart Black (Highland Council): In Highland Council, those who live on our islands make up a smaller part—about 5 per cent—of the total population. However, the islands are very

important to us, particularly when it comes to promoting the Gaelic language and culture. We feel that the bill speaks to general needs. We have some specific issues on things such as the availability of broadband and the services that we would like to be subject to a universal service obligation-type approach so that our island communities get them and are not the last in line to get some of the technology upgrades.

Another point that we make is about some of our peninsulas. Places such as Knoydart and Scoraig do not have road connections and are reliant on ferry connections. Although they are not islands, they are significant remote geographies.

11:15

John Finnie: My colleagues will pick up on some related issues later, but I would like to ask whether the witnesses expect the bill to lead to greater empowerment for island communities.

Norman A MacDonald (Comharile nan Eilean Siar): We absolutely believe that it will mean greater empowerment for island communities. We are strongly of the view that it is not about empowering our island local authorities. It is about us sending that empowerment out into communities. That is our starting point. We are looking to have powers and the ability to make our own decisions on a series of issues that impact on us but not on mainland authorities, so that we have the tools at our disposal to be able to influence those things in a positive way.

We are not looking for equality with mainland authorities. We know that that is not possible. What we want is to diminish the negative impact. That is why island proofing is such an important aspect of the bill. It started off with the idea that, if agencies island proof their legislation and policies and the implementation of both, we will end up in a much better place and we will not have to put so much effort, time and money into trying to retrofit the unintended consequences of legislation and policies that have an adverse impact on our communities.

We do not see the bill as empowering island authorities. We will look to empower our communities much more than we can empower them at present given that we do not have the levers at our disposal.

John Finnie: I acknowledge that island communities form a smaller percentage of the Highland Council population. Does Stuart Black see the council's island communities being empowered as a result of the bill?

Stuart Black: Highland Council is a very large council that covers 31 per cent of Scotland's landmass. We have a series of local committees—

the Skye and Raasay committee, for example, is a powerful voice for that community. We also have areas such as the small isles, which are part of Lochaber.

As Norman MacDonald said, a lot of this is about empowering communities at the grass roots rather than just empowering local authorities. The island of Eigg is a really good example of a community that has moved on from a troubled past, has taken things into its own hands and is helping to shape its own future. We have good examples of communities that have been empowered and are bringing forward developments. The spirit of the bill is about seeing more of that activity.

John Finnie: My final question is also for Mr Black. It is about the difference between the three island authorities and the mainland authorities that have inhabited islands. The latter authorities entered the process later in the day. Has that been a problem? Are you happy with the level of engagement? Do you feel fully engaged now?

Stuart Black: You are right that we came a bit late to the party, but we feel very engaged now. We have been taking part in the discussions through the islands group, which is chaired by Mr Yousaf, and we have been party to recent discussions when we were across with the council leader in Lewis. We feel part of the process. It is slightly different for us as we have a smaller proportion of our population on islands but, as I mentioned, there are also some remote geographies in the Highland area that have island-like characteristics, so it is important that we are involved.

The Convener: Before I bring in Rhoda Grant, Gail Ross will ask a question on that subject.

Gail Ross: Good morning, panel, and thank you for coming. My question follows on from what Stuart Black has just said. Highland Council's evidence touches on the need to ensure that there is

"more general rural proofing of policies and legislation",

and that this is not just for island communities. Do you have an opinion on whether island proofing will have knock-on positive effects for the more rural and remote communities on the mainland?

Stuart Black: It would certainly be good to see such effects. Many communities, particularly remote and rural ones, are facing challenges that cannot necessarily be addressed through a piece of legislation. However, if the spirit of the bill involves examining remote areas and considering that they need additional protection, that is positive for the wider Highland area.

The Convener: I am not sure whether I can comment on that. My interpretation would be that it is an islands bill, but I understand your sentiments.

Rhoda Grant: I want to ask about the different challenges that are faced by islands authorities and authorities with islands—there is a distinction between the two. Are the expectations on the islands different depending on the make-up of the authority that they are part of?

Malcolm Burr: I suppose that the expectations are inevitably different because of the political structures. I have worked in two of our islands councils and I believe that they are quite different from other councils in respect of the fact that, as well as being providers of statutory services, they carry an expectation of what I would call community leadership. I do not pretend for one moment that everyone loves their local authority all the time, but there is an expectation that an islands council will act as an external advocate for the area and will take on issues that are absolutely outwith its statutory responsibility, such as issues relating to ferries, air travel and health boards. That is a special role, and it is a privilege to work in that environment. I could not say to what extent that applies in other areas, but I think that islands councils are quite distinctive. That is why the three islands councils began our campaign. However, we did the campaign very much on the basis that whatever we achieved would be of benefit to councils with islands as well.

I take the point that Gail Ross made with regard to remote and rural communities. The same principles apply to them, and the same benefits and achievements can equally be applied to many other areas of rural Scotland.

Stuart Black: I think that it is more about fairness than expectations. Island communities have certain disadvantages, such as additional charges for mail order deliveries and so on. The issue is about fairness and having a level playing field. People who live on islands expect transport costs to be higher, but they do not expect companies to penalise them in the way that some companies do.

Islands have a special identity that is different from the identity of some mainland communities. However, there are strong identities in rural communities, so the issue is not always black and white.

The issue is about fairness, equality of treatment and ensuring that island communities have a voice. For many years, they have felt that they do not have a sufficiently loud voice.

The Convener: I am sure that people across the Highlands have views about delivery charges. It is not just people on islands who suffer in that regard.

Norman A MacDonald: The point that Rhoda Grant raises is relevant. There are great similarities between island communities that are not part of mainland authorities and those that are. We have the same issues even within our islands, with people who are removed from what is seen to be the centre of power or the centre of population in the islands feeling that they are worse off than those who are at the centre. The same feelings exist on islands that are part of mainland local authority areas. The issue is about reducing those inequalities and ensuring a degree of fairness. It is about ensuring that public agencies in particular think hard before they implement legislation and policies that will exacerbate those inequalities. That is the fundamental plank of the bill, and it is one of the key things that people are looking for. Our communities are beginning to understand that, and they believe that the issue is important for them.

Rhoda Grant: Does that make it easier for wholly island authorities to implement the bill and meet the aspirations of their communities? For example, in the case of an authority with both mainland and island communities, it would be quite difficult to manage a situation in which the islands in that area had power over decisions relating to the marine environment but the local authority did not have that power in the rest of its area. Do such issues mean that it is easier for wholly island authorities to implement the bill and meet communities' aspirations, or do you think that that will happen regardless?

Norman A MacDonald: Part 5, which contains the marine provisions, is in line with the devolution of the Crown Estate from the United Kingdom Government to the Scottish Government and—I hope—down to communities. We believe that the two things go together in that respect. I do not think that it makes any difference whether we are looking at a wholly island authority or an authority with islands that have a marine environment that can be used to support the community. The same applies across the board. Small and remote communities in peninsulas, which Stuart Black mentioned, have an opportunity to take greater control of their marine assets, just as many of them have taken greater control of land-based assets through land reform. We have great confidence in the capacity of our communities right across the Highlands and Islands to take control of land-based assets and manage them effectively for the benefit of the community, and we see control of marine assets as a natural progression. That is why the discussions on the matter came up as part of the our islands, our future campaign and our consideration of the bill.

Stuart Black: Whether they are on an island or not, coastal communities are very interested in what happens to marine assets. The spirit of the

bill applies to authorities with both mainland and island communities as much as it applies to the island authorities. Highland Council certainly campaigned a lot for the devolution of the Crown Estate and its assets, so I concur with what Norman MacDonald said.

Rhoda Grant: We spoke to the previous panel about the our islands, our future campaign and how it was driven by the three main island authorities, with the other authorities coming to the table later on, for a variety of reasons. What are your thoughts about why that happened? Was it a disadvantage to come to the table later on in the process?

Stuart Black: I do not think that it was a particular disadvantage. I can understand why the island authorities worked together; we have always had a strong partnership across the Highlands and Islands. Certainly, with regard to Highland Council, Argyll and Bute Council and North Ayrshire Council, I guess that our islands are more important to the local authorities than their population size would suggest, so they certainly punch above their weight. As I said, I do not think that coming to the table later was a disadvantage. We can help with areas of activity such as lobbying. For example, there are similar aspirations for city region deals and island deals, so we have tried to assist in that respect. Although we were a bit late to the party, we are very much playing a role now.

Rhoda Grant: With the other island authorities, Western Isles Council was one of the leaders in the process. Does the bill meet the aspirations that the council had when it set out on the our islands, our future campaign?

The Convener: I ask Malcolm Burr to keep his answer as brief as possible.

Malcolm Burr: As a chief executive, I think that the bill is a very important part of the set of aspirations that the campaign set out to achieve. There are other elements, however, one of which is our hope for an islands deal with the UK and Scottish Governments. Adjustments have been made to how business is done to accommodate islands, but the bill is a very important aspect. We wished to see the key policies of island proofing and having a national islands plan included in legislation and we hope that they will be.

The Convener: That leads us neatly on to the next set of questions, which will be led by Jamie Greene.

Jamie Greene: Good morning, panel. I want first to touch on something that was said earlier. I apologise for not remembering, but either Malcolm Burr or Norman MacDonald said that the bill will empower island communities, not island

authorities. Was it Norman MacDonald who said that?

Norman A MacDonald: Yes.

Jamie Greene: I am intrigued by that comment, and I want to probe it further. How will the bill, in terms of its technicality, empower island communities? How will it physically do that?

11:30

Norman A MacDonald: As was said earlier, people would like to see a number of things in the bill that are of key importance to island communities, particularly in relation to digital connectivity and transport connectivity. Those are two fundamental issues for island communities, although we recognise that they are also issues for peninsulas, which are similarly dependent on connections to population centres and services. We would like to see a number of things in the bill, but we recognise that it is a permissive bill and expect the specifics to be discussed in the plan and the guidance that will go along with the bill. We are comfortable with that because, as has been said many times, one size does not fit all, even within an islands authority, so it would be difficult to be prescriptive about issues in the bill, which deals with the principles. We are more than optimistic that that dialogue will happen as the process goes on.

Jamie Greene: The bill states only that the minister must produce a national islands plan and present it to Parliament. Is it your view that the bill should be more prescriptive? Should it dictate some elements of what should be in the plan? Currently, none of that is in the bill.

Malcolm Burr: We see the plan as being absolutely critical, as it should put the meat on the bones, as it were. However, we did not state in our response that the bill should be prescriptive because we hope that the plan will be there for all time. It will obviously change from time to time—we hope—and we would like to insert the important qualification that the islands authorities, other local authorities and, indeed, communities will be fully consulted and negotiated with on the national plan.

It is essential that the plan be clear, outcome focused and proportionate—recognising that some islands, island areas and councils with island communities may or may not wish to take advantage of all aspects of certain policies. They may want variation, and the plan will allow for that. One of the models that we looked at was the national Gaelic plan, which has a certain proportionality in areas but sets out clearly what is expected in implementing the Gaelic Language (Scotland) Act 2005.

In the short term, we would expect to see a great deal in the plan about connectivity, public service reform and transport—to name just three issues. The plan will be critical, as it will provide the substance behind the enabling provisions of the bill.

Stuart Black: Highland Council's view is that the national plan will be important. This year, there have been issues around tourism, for example, where we have seen significant growth. We want that to continue, and we want to be able to maintain a strong, healthy economy in our island communities. Therefore, a strong focus on the economy in the plan would be welcome.

As has been mentioned, the guidance that will come with the bill will be where the detail is. It will put the meat on the bones of the legislation. Generally, we welcome the bill as a piece of permissive legislation, but what happens next will be important. The plan should be measurable, so that we can tell how well things are progressing. If the plan is vague and does not have targets, we will not really be able to measure success. We would like to see some targets in it, so that public bodies and others can be held to account if those are not met.

Jamie Greene: I worry that there is a lot of hope and expectation in what you are saying. You have talked about what you hope the plan will address and about things that you hope will be in the plan, including outcomes and objectives. However, the bill as introduced contains absolutely no mandatory duty to have any of those things in the plan—it just states that the minister should produce a plan.

That leads on to the question of who the minister should consult to create the plan. Again, the bill's wording is loose. It says:

"Scottish Ministers ... must consult ... such persons as they consider represent the interests of island communities".

That leaves it open, and the bill has been criticised because it does not place a statutory duty on the minister to consult islanders or any specific groups in island communities. Do you have any views on that?

Norman A MacDonald: It is about hope and expectation, and about a clear belief, based on strong messages from our own communities and the wider community, in the potential for communities to change how we, as local authorities, and Government generally go about our business in respect of island communities. That belief is growing. The land reform legislation and the community empowerment legislation have been mentioned. Irrespective of the bill, those pieces of legislation give communities the power to have a greater influence over the things that

impact on people's lives, whether adversely or positively.

There is an expectation that there will be co-production as part of the process—that has been the case with the bill to date. We began with three island authorities presenting a paper to the convention of the Highlands and Islands. All the local authorities in the Highlands and Islands strongly supported how the issues were to be taken forward. Since then, we have had nothing but positive engagement with our own communities and communities elsewhere in the Highlands and Island, and with Government, too.

At this stage, it is more about an expectation. However, there are things that we want to see absolutely nailed down in the bill or in the plan and the guidance that goes with the bill.

The Convener: Before I bring in anyone else, the deputy convener will ask questions on consultation. A lot of expectation is being placed on consultation.

Gail Ross: Jamie Greene touched on the issue of who should be consulted, and we heard from the previous panel that all should have a voice—from the authorities and community councils all the way down to individuals in the communities.

I want to ask about timescales. The Scottish Government has said that the national islands plan will be laid before the Parliament within a year of the act coming into force. Is that realistic? It has also said that there should be a new islands plan every five years. Will you comment on that, too, please?

The Convener: I will bring in Malcolm Burr, then Stuart Black, which I hope will give us a balance of views.

Malcolm Burr: We want to see a specific provision on consultation with the islands councils as elected representatives of the areas and—I am trying to draft legislation as I speak—with those bodies representing islands and groups of islands. In my area, I am thinking particularly of community land trusts, which are elected, community councils, which are often but not always elected following competitive election, and the community development companies, which have an open membership and are elected by the communities where they operate. There should be a statutory provision requiring consultation with all those bodies.

In the Western Isles, we consider that the Government's proposed timescale for laying the plan a year after the act comes into force is about right. We have been preparing for this for a long time, and we would have lots to put into an islands plan if the invitation were extended to us tomorrow to draw one up. I would not say that a year is

ambitious. It is a tight timescale to allow the relevant consultation, but it is reasonable and we support it.

The period that the plan should cover is very much in the eye of the beholder. The first plan should perhaps stretch beyond the lifetime of this Parliament and then be reviewed every five years. We do not hold strong views on that point, except that we think that the plan should be for a reasonable length of time.

Stuart Black: Legislation such as the Community Empowerment (Scotland) Act 2015 sets the scene for local consultation. It will be challenging for the Government to achieve the proposed consultation. It will be difficult for the Government to get around all the islands, but modern technology enables consultation to happen through the use of the internet and other methods.

On the question of setting a timescale of publishing the plan one year after the act comes into force, as Malcolm Burr has mentioned, there has been quite a bit of local work. Although Highland Council has local priorities in places such as Skye and Raasay, they would fit into such a plan.

On the idea of reviewing the plan every five years, I point out that I am responsible for planning in Highland Council and know that five years can go by quickly. It is important that things are reviewed in the middle of that period to see how they are progressing. I do not think it is right to have a plan but look at it only after five years. Things can happen very quickly in economic developments and around decision making, and it will be important to review the plan during the five years so that it is not a done-and-dusted document that is looked at only five years down the line. Some review of progress during the course of the plan will be important as well.

The Convener: I will leave that issue there and move on. Sorry—Mike Rumbles would like to come in.

Mike Rumbles: This is about island proofing. We are all concerned to make sure that island proofing does not become a tick-box exercise. Can you give me an example of an initiative from any of the 60 or so public bodies that are mentioned in the bill that has been island proofed in the past? If so, what was it, how was that done and what did it cost?

The Convener: That is a difficult question to answer. The panel might want to gather their thoughts.

Malcolm Burr: I could start off with the so-called bedroom tax, which came in very quickly and on which there was the usual statutory

consultation. It had such an effect on the islands—on which there is very little one-bedroom accommodation to which prospective tenants could move even if they were able to—that we had to seek and were granted a derogation. That is a classic example. Had there been discussion and engagement with our area, we would have said that we appreciated the aims of the legislation and the will of Parliament but that the plan could not practically be delivered in our area. That is the example that comes most quickly to mind.

Mike Rumbles: That is an example of a policy that was not island proofed.

Malcolm Burr: Absolutely—yes.

Mike Rumbles: My question was really about whether there was something that had been island proofed in the past and, if so, what it was and how much it cost.

Malcolm Burr: I am thinking prospectively, I suppose. This is not exactly in point, but it is relevant. There is the forthcoming review of local governance. We were pleased to note in the programme for government a reference to islands authorities that want to introduce a single public service delivery model being supported by the Scottish Government in so doing—obviously with a number of caveats. That says that public service reform is with us and that there will be a local governance bill but that there is recognition of what islands councils and others have been saying for some time. Perhaps Government is preparing for that or at least allowing the possibility of other models. That is the kind of thing that we are talking about.

The Convener: Would Stuart Black like to come back in on that?

Stuart Black: Mr Rumbles has asked whether I can think of an example. I am afraid that I cannot, so I will have to leave it at that. I cannot think of one example of island proofing having been done in the past. Malcolm Burr has talked about the future, which illustrates the need for island proofing.

Mike Rumbles: It is interesting that everybody is talking about island proofing, yet nobody seems to know how it is to be done or what the cost will be. Western Isles Council's written submission states:

"There are no enforcement provisions listed either in relation to a decision"

by any of those public bodies

"not to conduct"

an impact assessment for that purpose. That raises the same issue. I am trying to get to the nitty-gritty of what island proofing is. We are asking those 60 or so bodies to do it, but I am not

sure what it is or what costs are involved. The submission says that there are no enforcement provisions to ensure that those bodies do it.

11:45

Malcolm Burr: Those are the improvements that we would like to see in the bill, although it does contain the provision that an assessment must describe the likely significant different effect of a policy before the assessment is made. There is a two-stage process: a government, an authority or an agency must first describe what the policy does and then assess it. That is a very good start. Our issue is that, because of the way in which bill is written at the moment, the assessment would be solely the authority's opinion, which would lack objectivity. Likewise, the assessment of significance would be entirely with the reviewing authority. We think that the best people to assess significance are those who live in and represent island communities, and we would wish to be involved in that process. Assessments should be co-produced.

You asked about cost. I am sorry that I did not address that. Frankly, we see a lot of this work in our day job as government. Local government is an arm of government, and we see the proposals as part of our work with the UK Government, the Scottish Government and the agencies that will have to set up administrative means of working with us to talk about forthcoming legislation, policy and strategy. It is hard to say what the cost will be, although we would willingly do that tomorrow. As I say, I see the proposals as part of the core business of any body that calls itself government. My points concerning the subjectivity of decisions about the need for an assessment and the assessment of significance are key for us, but there is the basis of a process in the bill.

The Convener: Let us say that the assessment goes ahead and does not require the decision to be island proofed, and that to do so will cost money—decisions to island proof or do anything else will have a financial effect. I am trying to understand where communities think that the money will come from. Will it come from local authorities or from the Government? How will you deal with that? Perhaps that is an add-on to the answer that Norman MacDonald was going to give. Can I bring you in here, please?

Norman A MacDonald: In response to Mr Rumbles's question, it is key to ensure that island proofing is not a tick-box exercise, that things are clear and that it is not for the authority to decide whether it is relevant to island proof. That is very much part of our day job; however, as local authorities and communities, we would rather have that conversation with agencies before a policy is introduced or, if the policy comes from the

Government, before legislation is introduced. That would save money. It cost more to retrofit the bedroom tax issue that Malcolm Burr raised, which was a totally unintended consequence of legislation that in other places was quite relevant for some folk. That is where the work gets done. It is part of the day job, but we would rather have that conversation the day before the decision is taken than try to persuade people to change it afterwards. We want the bill to be strengthened in that respect. That would not change it fundamentally, because the provisions are there, but it would make it more specific and we believe that it would send a clear message to those with whom we are engaging that the onus is on them to take it seriously. That perhaps addresses Mr Rumbles's point.

The Convener: Who is going to pay for the island proofing?

Norman A MacDonald: I believe that there may, in some instances, be an additional cost to doing it, but that would be much less than the cost of trying to fix a problem afterwards. Again, that would be part of the discussion. It is better to get things right than to have to spend a lot of time and energy in trying to change things retrospectively. We do not see it as a huge issue, but it would have to be discussed as part of the process. If island proofing would be ridiculous because it had a horrendous cost, we would have to be reasonable about that, but that would be the form of the discussion and the impact assessment. Clearly, nobody is going to offer a blank cheque.

The Convener: I will bring in Stuart Black, then—

Mike Rumbles: Can I ask a question, convener?

The Convener: You can ask a small one, provided that it elicits a short answer.

Mike Rumbles: We heard evidence that islanders need to be consulted, to ensure that we do not have a tick-box exercise. Would it be sufficient for islands councils to be consulted in an assessment by the 60-plus bodies?

Norman A MacDonald: We would speak to the communities that were most likely to be affected. They could be communities of geography or communities of interest in terms of the range of services that we provide. We would not take part in that process without consulting the communities—absolutely not.

Local authorities are one vehicle through which consultation could be done, as are integration joint boards or whatever the relevant bodies are. What is important is that agencies do not feel that they can shy away from responsibility.

Stuart Black: In our submission, we refer to equality impact assessments, which have a screening process to determine whether a full impact assessment should be undertaken. We think that that process makes sense. There will be a requirement for a full impact assessment in some areas but not everywhere.

Impact assessments can be about mitigation. A policy could have financial impacts, and things could be done to reduce them. We feel that a two-stage process would be beneficial, as public bodies would be able to show that they had looked at the issue and, if it required a full impact assessment, they would conduct one. That would mirror environmental and equalities legislation, so it is a potential way forward.

The Convener: I will bring in John Mason, unless he feels that his question has been answered.

John Mason: We have touched on some of the things that I was going to ask about. On the question of what could be island proofed, the example that comes to my mind is ferries. We were on Mull—I realise that none of the witnesses represents that island—and the community there felt that it had not been consulted about the new ferry timetables. There is an immediate tension, because somebody has to decide where all the ferries are going and not every island can have exactly what it wants. I do not want to go into all the detail, but might that be an example of the kind of decision in which local communities could be a bit more involved than they have been?

Malcolm Burr: That example is relevant to the principle that communities and those who represent them should be involved in decisions at the earliest possible stage. That should be a requirement in statute.

Incidentally, on costs, part of the debate should be whether an outcome can be achieved on an island by different means, which may well be cost neutral or less cost demanding. That should be a key part of the discussion.

The issue has to be involvement in the decision-making process and the formation of policy. We live in an age of significant change to public services and public service delivery as well as significant financial constraints. Regional planning and delivery of services are of critical importance to the islands, and it is essential that the statutory element is there to ensure that communities and those who represent them are involved in decisions.

John Mason: We have discussed what should be in the bill and what should be in the islands plan. Another aspect is how much should be in the ministerial guidance. What and how much should be in the ministerial guidance? Should we try to

minimise that and have everything laid out elsewhere?

Malcolm Burr: I am happy to start the discussion. The ministerial guidance is very important because it sets out the processes. The bill is about policy formation and process as well as the substantive elements. It is essential that the island-proofing elements are set out with sufficient detail of who will be consulted, in what form they will be consulted, at what level the consultation will take place, what the sign-off will be and what the discussion will be with islands councils and island communities.

The guidance must also set out what the review process will be if one authority does not see the need for an impact assessment or thinks that the policy will not have a significant effect but there is a radically different view in Lerwick, Kirkwall or Stornoway. There needs to be a process of review. I am talking not about a judicial review—that would be a last resort—but about a process that would enable each party to say that the consultation has been conducted fairly and reasonably and that, although they will not always agree with the outcome, they are clear that a process has been followed that has taken relevant matters into account. Guidance is absolutely essential to that.

John Mason: I presume that you would not want to have your hands totally tied by central Government with regard to who you would consult on every issue. As an islands authority, you would hope to consult slightly different people on different issues.

Malcolm Burr: Exactly. As Norman MacDonald said, we will at various times consult internally, with geographic communities and with communities of interest, depending on the subject matter.

Stuart Black: I concur with Malcolm Burr on the importance of guidance, because it sets out what has to be done and the way in which it should be done. I have nothing further to add on that point.

The Convener: The next question is from Rhoda Grant. I apologise that it will go one way only—there will be an evidence session next week at which Western Isles Council will have input.

Rhoda Grant: The convener is trying to say that the witnesses from the Western Isles should not answer this question because they will have adequate time to do so next week. I ask Stuart Black whether Highland Council is happy with the Western Isles having the same protections as Orkney and Shetland with regard to election boundaries.

The Convener: Bearing in mind the panel member who is sitting to your left, I am sure that you will answer carefully, Mr Black. [*Laughter.*]

Stuart Black: Yes. Interestingly, we support that. We also have a concern, which was raised at the council debate, about the size of Highland constituencies, which we feel is a significant issue. We are very supportive of the Western Isles, but we also have a concern about the size of parliamentary constituencies in the Highland Council area, and any potential reduction. It is my understanding that they are among the biggest constituencies anywhere in Europe.

The Convener: Well done for getting that in, but I am afraid that it is not covered by the Islands (Scotland) Bill, and I do not think that we can stretch it that far.

We move on to the next section, with some questions from Richard Lyle.

Richard Lyle: I agree that the Local Government Boundary Commission for Scotland should look at all those things. In 2004, there was a change to multimember wards. Just before the 2017 election, the commission put the number of councillors in my area up by seven—from 70 to 77—against our recommendation, but heigh-ho.

My question is also only for Highland Council, because the Western Isles will get a chance next week. Do you have any thoughts about the practical issues regarding the current three and four-member wards and the potential impact on islands of a switch to one and two-member wards? Does that proposal mean that the overall number of councillors in a local authority area should go up? How would that work? Should candidates who stand for island wards stay on the islands?

Stuart Black: Again, that was discussed in the council debate on the Islands (Scotland) Bill. On representation within Highland Council, Skye and Raasay is in a ward with four members, who represent that island community. The issue is probably more pertinent to the small isles, which are in the Caol and Mallaig ward. We were of the view that there should be a minimum threshold because the populations on those islands are very small. I have nothing further to add on that. We are fortunate that the Skye and Raasay island grouping is a four-member ward, so it is really an issue only for Caol and Mallaig. I think that the members there are very cognisant of the issues for the islands, and the small isles in particular. Our response may be less deterministic than some others.

Richard Lyle: Should local authorities be consulted by the Government and/or the Local Government Boundary Commission for Scotland with regard to putting a certain number of councillors in particular wards? I do not know

whether you have area committees. I will ask a question that I asked the previous panel. Should an area committee be totally devoted to islands?

12:00

Stuart Black: We have an area committee for Skye and Raasay, as I mentioned, and the small isles are in the Lochaber area committee. That ensures that they have good representation, and they are able to bring issues to the wider Highland Council, so I do not think that it is so much of an issue. Of course, the islanders on the small isles including Eigg might feel differently, but we would need to consult them. That goes back to your point about the need for consultation with those communities.

Richard Lyle: Will you remind me how many councillors you have in Highland Council?

Stuart Black: There are 74.

Richard Lyle: So the number should go up, in the same way as in my area.

Stuart Black: We have had a reduction, actually—there were 80 before.

Richard Lyle: That is amazing. Thank you.

The Convener: I am glad that we are not going to develop that debate here. I ask Peter Chapman to lead the next section.

Peter Chapman: My questions are about the provisions on marine development, including the regulation-making power for Scottish ministers to establish a marine licensing scheme. Do you agree with the power in the bill? How could it be used in practice?

Stuart Black: The council welcomes the provisions on a marine licensing scheme. We have sought to increase our influence over the marine environment around the coasts of the Highlands and our island communities. Echoing points that were made by the previous panel, I note that the resourcing could be difficult, but we want to have greater control and say. In the past, communities have been frustrated by their lack of ability to influence developments around the coast, so that is something that we are keen to see.

Peter Chapman: How do you see it working in practice?

Stuart Black: Again, the devil will be in the detail, but I know from the past that there are frustrations around some of the licensing conditions and some of the rentals that were required—from the Crown Estate, for example—for developments around the Highland coast. It was felt that the local community had very limited say on what was happening, and the revenues

were lost from the local area. We want to see more local control over that.

Norman A MacDonald: I support what Stuart Black has said. The issue is entirely linked to the devolution of the management of the Crown Estate to the Scottish Government and, hopefully, down to communities, which will put a significantly greater degree of control into their hands. Historically, as a local authority, we knew nothing of marine developments—predominantly aquaculture—until we got planning applications for shore-based developments. By that time, all the consents and everything had been signed and were done and dusted and nobody in the community had known anything about it.

It is about having a lever so that we have greater control—not necessarily within the local authority, but within our communities—of what happens in the marine environment, as is currently the case with the land-based environment. I imagine that it is an awful lot easier to manage the marine environment than the land-based environment, which is cluttered with people in some areas. We get a lot more opposition and concerns raised by people than we do from anything that lives in the marine environment. *[Laughter.]*

I do not see it as an insurmountable problem for communities to take greater control of the marine environment, and a licensing regime is probably the best way to do that.

Peter Chapman: Is there an expectation that all the local authorities will take up that power? Do you feel that you will want to get involved in that?

Malcolm Burr: I suspect that some councils will and some will not. In the northern isles, there is experience of a works licensing regime that is already run by the local authority within its specific harbour area. I believe that that works very well and quite harmoniously with other regulatory interests. I imagine that those authorities that have significant coastal areas and strong views about the management of them will want to take up the scheme, but that not all authorities will do so.

The Convener: Does anyone have a different opinion? It seems not.

Peter Chapman: I have one further question. Have you consulted local communities on this aspect of the bill? If so, what feedback have you had?

Stuart Black: In general, Highland Council has a long history of examining issues relating to the Crown Estate and marine matters. Generally, there is a favourable response when we consult communities.

Norman A MacDonald: We have demands from our communities for greater control to be

devolved to the community level with regard to what happens in the marine environment. They want us to do something about that, and that is why the issue has been raised in that way in the bill. It is one of very few specifics that are contained in the bill, and we believe that that is for a good reason.

John Mason: We have touched on finance, but I have a summing-up question on the financial memorandum. Are you comfortable with it? Do you think that the costs for administration are reasonable? Should any other costs be included that are not there?

Malcolm Burr: We are generally content with the financial memorandum. There will be an element of trial if the bill is enacted and those processes are set up. However, we have estimated that what is in the financial memorandum is reasonable.

Jamie Greene: There needs to be a differential between the cost of, for example, the implementation of island proofing versus the cost of doing the island proofing—that is, the administrative costs of doing it versus the actual realities of having to implement the consequences and the outcomes of that impact assessment.

For example, with regard to access to healthcare provision on the mainland and people travelling from island communities to access specialist services in a mainland hospital, true island proofing would mean that services would be provided on an island rather than on the mainland. However, the cost implications of that are tremendous. Are you confident that local authorities have adequate funding to back up the concept of island proofing? The bill does not come with any additional resource or funding to councils.

Malcolm Burr: Just to be clear, I was referring to implementation of the bill rather than the consequences. We are already engaged in the process that you describe. Island councils benefit from special islands needs allowance and we have a level of grant-aided expenditure that, although it is far from adequate for our needs, at least recognises some difference in the delivery of services in island communities.

One of the key elements of the bill is to put that negotiation and discussion on a formal constitutional basis that is clear to the agencies that work with us and in relation to the services that we provide. That is why I keep emphasising that it is part of our community empowerment and local governance agenda. It does not stand apart from that; it is a critical part of how we deal with the future delivery of public services in our communities.

Stuart Black: There are additional costs associated with delivering services on islands. If

rural proofing leads to higher impacts on the council overall, the fact that we are not funded in that regard at the present time will mean that members will have to take a view on the priorities.

Malcolm Burr's point about the additional costs of the activity that arises from island proofing needs to be considered by public bodies. For example, with regard to an islands plan, there would be an expectation that some resource would come from that to help to implement some of the ideas within the plan. I think that the bill will have cost implications beyond the actual implementation of the legislation.

The Convener: That is probably a good place to leave the discussion. I thank our witnesses for giving evidence. Next week, we will take further evidence on the Local Government Boundary Commission for Scotland.

We will now move into private session.

12:09

Meeting continued in private until 12:35.

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