

Islands review: meetings with Islands councils

Action

1. The Commission is invited to consider the issues set out in this paper in preparation for meetings with the three islands councils and to agree the text of the template letter to councils at Appendix A.

Background

2. On 3 April 2018 the Secretary wrote to the Chief Executives of the 6 islands councils affected by the Islands (Scotland) Bill. The Chair wrote in similar terms to council leaders. The letters, which have been circulated to Commissioners, explained that for Orkney, Shetland and na h-Eileanan an Iar the Commission would be commencing the reviews required by the Islands Bill in 2018; and for Argyll and Bute, Highland and North Ayrshire in 2019. The letters to the 3 wholly islands councils sought a date for a meeting in June 2018 and set out issues that the Commission would like to discuss including:

- 2.1.councillor numbers;
- 2.2.consultation with islands communities;
- 2.3.use of the power to create wards of between 1 and 4 members;
- 2.4.electorate forecasts; and
- 2.5.ward design considerations.

3. Each of these issues is considered further below. At this stage it is not necessary for the Commission to take final decisions on all these issues – policies and procedure for the review can be agreed later – but it will be helpful to be as clear as possible at the meetings as to what we will be asking of councils.

Councillor Numbers

4. The Commission agreed that the electoral register as at 1 December 2017 should be used for the purposes of the review of the 3 Islands councils. Data from this register was published by National Records of Scotland on 22 March 2018. Using the same categorisation and methodology as adopted in the 5th Reviews produces the following:

	December 2017 electorate (excl. attainers)	Current councillors	5th Reviews final recommendation	Based on December 2017 electorate	With 10% cap
Na h-Eileanan an Iar	21661	31	26	27	28
Orkney	17038	21	21	21	21
Shetland	17729	22	22	22	22

5. In its earlier discussions, (see Paper 2429), the Commission considered a more flexible approach for the determination of councillor numbers. In Wales the number is determined by formula and notified to councils but it is open to councils to propose a different number, with a cap of 10% on change. In England there is greater flexibility, with councils themselves invited to suggest a ratio for guidance and LGBCS will accept a case for change which is checked for

consistency against CIPFA benchmarking data and justification would be required for any significant change in council size.

6. While it is not necessary to have agreed a final position on this issue in advance of meeting the councils it will be helpful to have considered some of the possible parameters within which the Commission will be working, for example:
 - the interests of effective and convenient local government and the schedule 6 rules for review, as set out in the Local Government (Scotland) Act 1973, remain paramount
 - the methodology of the 5th Reviews remains relevant and appropriate and the basis on which the Commission will determine its initial proposals for councillor numbers
7. Building on earlier discussions, issues the Commission may wish to consider exploring with councils include:
 - that it is open to them to make a case for a different number of councillors providing that case is based on clear evidence. Such evidence should be based on the relevant legislation ie demonstrate:
 - that it is in the better interests of effective and convenient local government
 - that it supports the establishment of ward boundaries that meet the Schedule 6 rules
 - that regard is had for the representation of islands communities and special geographic conditions that may apply
 - that the Commission would expect any proposal for a different number of councillors to be within a fixed percentage, for example 10%, of the number derived from the methodology and where the methodology supports an increase or reduction, the council's proposals move in the same direction.
8. The Commission may also want to consider whether any form of benchmarking between councils within the same 5th Reviews category would be helpful. For example, if one of the 3 islands councils were to argue for a significant increase in councillors while the other two sought a reduction then that would be something to explore in greater depth.
9. The Secretariat suggests that the letter to councils sets out the number of councillors derived from the existing methodology and invites initial views for discussion at the meeting. It is unlikely that for the three islands councils there will be significant difficulty given the experience of the 5th Reviews. However, the approach adopted will be important as it will inform future reviews.

Consultation with islands communities

10. The Commission previously agreed to consult only the councils on councillor numbers, and both councils and the public on ward proposals. The planned meetings will allow a discussion of each council's initial thinking on councillor numbers. It will also be helpful to discuss with them the most appropriate ways to consult the public on ward designs.

11. Previous reviews have used a mix of approaches: public notices; information at display points; distribution of materials to MSPs, councillors, MPs, community councils and others; news releases; and social media. Consideration is being given to use of direct household mailing for the first time. While it is not intended that an externally hosted portal is used, there will be online consultation facilities allowing access to maps and other information and the ability to submit comments and views directly to the Commission.
12. The Commission will seek views from the council on:
- their own approach to community involvement
 - particular groups or networks that should be consulted
 - thoughts on areas or issues that might be of particular public interest
 - the benefits of face to face engagement between the Commission and communities and how this might be facilitated.
13. This information will assist in developing a public consultation strategy. In that regard, the Secretariat met The Consultation Institute, a “best practice Institute, promoting high-quality public and stakeholder consultation in the public, private and voluntary sectors.” This was a helpful discussion about the possible approaches to public consultation generally. The Institute works with a range of bodies, usually on more extensive or significant consultation and engagement programmes than perhaps is envisaged for the islands reviews. A number of larger public bodies such as Health Boards have used the Institute to ensure their consultations are compliant to avoid the risk of legal challenge.
14. Emphasis was placed by the Institute on adherence to the “Gunning principles”, namely that:
- consultation should occur when proposals are at a formative stage
 - consultations should give sufficient reasons for any proposal to permit intelligent consideration
 - consultations should allow adequate time for consideration and response
- “Conscientious consideration” should be given to the outcome of a consultation process – this requires an authority to be able to demonstrate that it has considered the outcome of the consultation process and prepared to change course in response, if appropriate. There was nothing in the discussion that led the Secretariat to believe there was anything flawed in the way the Commission currently conducts its consultations. However, reviewing what we do against the Gunning principles would be helpful. One option would be for the Commission to become a member of the Institute which would enable access to advice and guidance without commissioning full quality assurance, training or other tailored services offered.
15. While the “island-proofing” duty will not be in force at the time the reviews of the islands councils commence, the Commission will wish to consider the spirit of the legislation and ensure that demonstrable regard is had to islands communities, in line with the section 7 duty in the Islands Bill. That may require us to demonstrate in particular that we have engaged proactively with communities and it will be helpful to take council views on this.

Use of the power to create wards of between 1 and 4 members

16. The Islands Bill will provide the Commission with the power to use 1 or 2 member wards as well as 3 or 4 member wards. Just as with the existing power for 3 or 4, it is wholly within the Commission's discretion to determine the appropriate pattern of wards for a council area and there is no guidance or direction given to the Commission. Clearly 3 or 4 member wards were introduced as part of proportionality in local government elections and the use of a single transferrable vote system, while not unworkable with a single member ward, does undermine some of the advantages of the system. On the other hand the intent of the Islands Bill is to ensure use of 1 or 2 member wards can help achieve effective representation for island communities with particular needs who might feel less represented as a small part of a predominantly mainland ward.

17. In balancing these issues, the Commission may want to consider the principles it wishes to establish, for example –

- that we continue to work to deliver effective and convenient local government and meet the schedule 6 requirements
- whether the presumption is that 3 and 4 members remain the norm, as the "default" number across Scotland as a whole, and that we look for defined circumstances in which we depart from the norm. Such circumstances might include where an island has a clear community, challenging transport links to other areas which would need to be incorporated within a 3 or 4 member ward.
- whether there is merit in trying to ensure a pattern of wards that as far as possible are of similar size to avoid voter confusion and any sense of unfairness between wards within a council area.
- whether it intends to maintain a target of 10% parity and what its aim would be where special geographical conditions apply.

18. It is expected that the councils will have their own views on some of these issues and at this stage hearing their thinking will be important before deciding an approach.

Other ward design considerations

19. The Secretariat will present some preliminary maps on the 3 island council areas at the May meeting. These will include:

- current wards with electoral parity
- wards from 3rd Review (single member wards) – these may provide an idea of community links within the islands and with the mainland
- recommendations from the 5th Reviews

20. The maps will be based on 1 December 2017 data and the Secretariat will create 5-year forecast electorate data once it has collated new build development from each council.

21. It is not the intention to share these maps with the councils at the meetings but they are intended to help Commissioners to begin consideration of some of the issues.

Electorate forecasts and other council information

22. Schedule 6 of the Local Government Scotland Act 1973 requires the Commission to determine parity which is “as nearly as maybe the same” having regard “to any change in the number and distribution of electors of a local government area likely to take place within the period of 5 years following the consideration” by the Commission of a council’s electoral arrangements.

23. To support development of the forecasts during the 5th Reviews, councils were asked to provide information on:

- forecasts of new house building, residential property demolitions; and
- institutional development (such as students’ halls of residence) that are likely to be occupied within the next 5 years.
- a map showing established communities in the council area and any links to neighbouring communities (preferably supplied as GIS shapefiles).
- other locally recognised boundaries. These may include, but are not limited to, community council area boundaries, school catchment areas and polling districts. Information on whether and when these boundaries are due for review will be helpful.

24. Some council GIS data is available to download from the Improvement Service website:

	Orkney	Shetland	Western Isles
Community Councils	Yes	Yes	Yes
Polling Districts	No	No	Yes
School Catchments - Primary	Yes	Yes	Yes
School Catchments - Secondary	Yes	Yes	No

25. While this level of detail may not be appropriate for the meetings, the Commission’s letter to the councils should specify the information required. Given the focus on islands communities, information on links between individual islands and the mainland within each area would also be helpful.

26. Finally, during the 5th Reviews it was helpful when councils were able to provide an officer-level link for the Secretariat as a source of informal advice on boundaries and local communities. Some councils were less happy to adopt this approach but it is suggested that the three islands councils be asked to consider providing a route for this support during the islands reviews.

Letters to councils

27. In the letters of 3 April, the Commission committed to writing again in advance of the meetings with further thinking on the key issues. Drawing on the issues outlined above, a draft template letter is attached at Appendix A; this will be finalised in light of the Commission’s discussions at the May meeting and tailored to each of the three councils.

Meetings

28. Dates for the meetings between the Commission and each of the councils, and agreed attendance are set out below:

Council	Date of meeting	Location	Council attendance	Commission Attendance
Orkney	10 July	Kirkwall	Chief Executive depute/ Council Leader	Ronnie Hinds, [Sue Walker tbc], Secretariat x 2
Na h-Eileanan an Iar	12 July	Stornoway	Chief Executive /Council Leader	Ronnie Hinds, Sue Walker, Secretariat x 2
Shetland	18 June	Lerwick		Ailsa Henderson, Roland Bean, Secretariat x2

Briefing for meetings

29. The Secretariat will prepare full briefing for each meeting. This will include a summary of the views expressed by each council during the consultation on the Islands Bill and the Stage 1 evidence provided to the Rural Economy and Connectivity Committee.

Recommendation

The Commission is invited to:

- consider the issues in this paper
- provide comments on the draft letter to councils
- indicate what further information it requires in advance of the meetings set up for June and July

**Secretariat
May 2018**

DRAFT LETTER TO COUNCILS

LGBCS Paper 2440
Appendix A

Jan Robert Riise
Head of Governance
Orkney Islands Council

May 2018

Dear Mr Riise,

ISLANDS (SCOTLAND) BILL

Thank you for the helpful discussion we had following the letters of 3 April from the Commission to your Chief Executive and Council leader. I confirm that we will attend the meeting arranged for the afternoon of 18 June at the Council's office and that the Commission will be represented by Ailsa Henderson, Deputy Chair of the Commission, and Roland Bean, Commissioner, supported by Colin Wilson and me from the Secretariat.

When I wrote previously I set out some of the issues that we hope to discuss with you. Further thinking on these is set out below, to inform our meeting. It may also be helpful to remind you that our 5th Reviews report is available on our website and you will recall when the Commission submitted its recommendations to Scottish Ministers that we recommended no changes to councillor numbers, ward boundaries or ward names for Orkney council area.

Councillor numbers

The Commission remains committed to use of the 5th Reviews methodology and intends to use that as the basis of determining councillor numbers during the review of Orkney Islands council area. We have decided to use the electoral register of 1 December 2017, published by National Records of Scotland in March 2018 for the purposes of councillor numbers. Applying the ratio of 1:800 used in the 5th reviews, and a cap of 10% on change from existing numbers, would result in your council having 21 councillors.

The Commission is open to consideration of an alternative number where evidence can be provided which supports our overall aim of recommending electoral arrangements that are in the interests of effective and convenient local government and which demonstrates advantage in terms of the rules for review set out in Schedule 6 of the Local Government (Scotland) Act 1973. We would not expect any alternative to be a significant departure from the 21 councillors proposed by the methodology and will be happy to discuss further with you what your own initial thinking is. We would expect to formally consult the council at a later stage.

Power to create 1 or 2 member wards

The Islands (Scotland) Bill has now completed its passage through Parliament and is awaiting Royal Assent. The Bill will allow us to use one or two member wards throughout your council area as all parts of the area meet the requirement of being comprised wholly or partly of an inhabited island. As you know the power to create multi-member wards is set out in the Local Governance (Scotland) Act 2004 and wards with 3 or 4 elected members have been in force since 2007. We would like to discuss with you how you see the power to establish one or two member wards applying in Orkney Islands council area and how the intent of the Islands (Scotland) Bill to recognise the distinctive nature of islands communities fits with the intent of the multi-member ward system to deliver proportionality under a single transferrable vote electoral system.

Ward designs

If you have any preliminary thoughts about ward design and relevant factors that would influence this that you think would be helpful to share with us at this stage then we can discuss when we meet.

Consultation

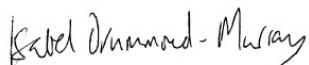
Consultation underpins all of the Commission's work and we remain committed to ensuring this is as effective as possible. Our experience in the 5th Reviews suggests that public consultation on councillor numbers is unlikely to be helpful in determining the appropriate number for any council. We do not intend therefore to consult the public on this issue [and would be interested in your views]. Clearly public views on ward boundaries are essential and it is important to us that we find mechanisms through which to communicate that maximise participation and provide us with as full a picture as possible of the issues in your area. This is particularly important given the use of 1 or 2 member wards. We would appreciate information on your own approach to consultation ie how the council's response to Commission proposals is shaped by community input and also on how you think we might best seek to undertake consultation in the islands.

Electorate forecasts and other council information

As you will know, in preparing ward designs we are required to take account of forecast electorate over a 5 year period. I attach at Annex A some of the information that we will be seeking from you. It would also be helpful to us if you could consider providing an informal officer-level point of contact within the council in order that the Secretariat can take views on boundaries, local community ties and other local issues in preparing ward designs. This would be helpful to us and would not be taken in anyway as representing the position of the council on any given issue.

I would be grateful if you could keep the Chief Executive and Leader informed of next steps and I look forward to seeing you on 18 June. Please let me know if there is anything further you would like from us in advance of our meeting.

Yours sincerely



Isabel Drummond-Murray
Secretary

INFORMATION TO REQUEST FROM COUNCILS TO INFORM FORECAST ELECTORATE AND WARD DESIGN

Forecasts for 2023

- forecast of new house building, residential property demolitions; and
- forecast institutional development (such as students' halls of residence) that are likely to be occupied within the next 5 years.

Other information

- a map showing established communities in the council area and any links to neighbouring communities (preferably supplied as GIS shapefiles).
- other locally recognized boundaries. These may include, but are not limited to, community council area boundaries, community planning areas, school catchment areas and polling districts. Information on whether and when these boundaries are due for review will be helpful.
- Identify which islands are inhabited.