OUR ISLANDS – OUR FUTURE

CONSTITUTIONAL CHANGE IN SCOTLAND –
OPPORTUNITIES FOR ISLANDS AREAS

1. Scotland's three Islands Councils - Shetland, Orkney, and Comhairle nan Eilean Siar representing the Western Isles, have agreed to work together in a programme of positive engagement to ensure that whatever happens over the next two or three years in relation to the constitution of Scotland the position and needs of island areas are adequately taken into account and the particular nature of Scotland's three main islands' areas acknowledged and recognised.

POLICY FRAMEWORK

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

The terms of reference of the Committee were

"having regard to the remoteness of the communities within the areas of the Island Councils of Scotland and to the impact upon those communities of major economic development (such as projects associated with off-shore oil exploration) and with a view to improving the effective and economical discharge of functions by these councils:

(a) to review their discharge since May 1975 of the functions placed on them by the Local Government (Scotland) 1973 and related public, general and local legislation

(b) to recommend whether any changes in legislation or in administrative practice are desirable in the local and national interest"

The key principles established by the Montgomery Committee are:

(a) Opportunities should be taken whenever possible to consolidate, develop and extend the powers of Island Councils in a continuing process of development in the local government of the islands; and

(b) Acts of Parliament should include a position to vary the application to the Islands areas.

3. The European Union's Consolidated Treaty provides in Article 174 that EU policy should give "special attention" to the specific characteristics of territories with serious and permanent handicaps, including islands, and that these objectives should be taken into account in the implementation of the internal market. The term "permanent handicap" in this sense refers to the fact that islands are territories with more limited options, for example, as to modes of transport and the number of economic activities, and which reflect the fragility of markets limited by small populations, and the need to import a significant proportion of supplies and resources.

4. The EU is committed as an organisation to the application of principles of subsidiarity, defined in Article 5 the EU Treaty and to ensuring that national parliaments, likewise, ensure that their institutions act on the same basis. The subsidiarity principle, that decisions should be taken as closely as possible to the citizen, and that a larger institution should not undertake actions where these can more effectively be taken at a local level, is a key element of the *modus operandi* of islands, and was recognised in 1975 in the establishment of unitary, all-purpose Councils in Scotland's islands, unique within the Scottish local government framework.

THEN AND NOW

5. Almost thirty years later the issues of remoteness, and of how best to deliver services for the benefit of Scotland's islands efficiently and effectively, remain. The major predicted economic

development associated with off-shore oil exploration has been realised and both the Orkney and Shetland Islands Councils have identified extended opportunities in the significant oil and gas exploitation which is a continuing element of the Northern Isles' economy. The three Islands areas still face challenges of connectivity in relation to taking advantage of the opportunities of on and off-shore renewable energy development. The challenges in relation to the maintenance and improvement of transport links with mainland Scotland and further afield remain. Effective exploitation of the Islands' natural resources is also regarded as a transformational contribution to the viability of Islands' communities, without any negative effect on other communities.

6. The Scottish Independence Referendum Bill was introduced to the Scottish Parliament on 21 March 2013, and, when enacted, will provide for a Referendum to be held on whether or not Scotland remains part of the United Kingdom. Whatever the result, the main political parties within Scotland have stated that the current constitutional settlement is unlikely to remain. None of the three Island Councils has expressed a political preference on the options available as it was considered to be in the interests of the three Islands areas to engage with UK and Scottish Governments, the European Union and representatives such as the Islands Commission of CPMR as well as the "Yes Scotland" and "Better Together" campaigns. This engagement will be based around the principles established by the Montgomery Committee detailed in section 2.

(Reports recently considered or shortly to be considered by the Islands Councils (Comhairle nan Eilean Siar 28 March 2013, Orkney Islands Council 16 April 2013 and 18 June 2013 and Shetland Islands Council 24 April 2013) are attached for ease of reference.)

7. The Councils have conducted detailed research in relation to the frameworks in which other Islands areas operate (for example the Falklands and the Isle of Man) and of the various constitutional approaches which are available. This work will be key to informing the detailed stage of the debate and engagement.

THOUGHTS TO THE FUTURE

8. This paper sets out the general principles which it is hoped will be examined and discussed in the course of the debate on Scotland's constitutional future. Shetland Islands Council held a Members' Seminar on 8 May 2013 and Comhairle nan Eilean Siar held a Members' seminar on 12 June 2013.. The island groups have agreed to host a conference in Orkney on 19/20th September 2013, on constitutional reform. This conference will provide a platform for local, regional and national figures to contribute towards the constitutional debate and its relevance to the three Islands groups.

9. Opportunities in relation to the development and extension of the powers of Islands Councils could involve:

Resource-based:

- Control of the sea bed: Island Authorities having control of revenues currently paid to the Crown Estate and being able to utilise these resources to meet local needs. A greater local role is also required in all aspects of inshore marine resource management and utilisation, such as spatial planning and consenting.

- Development of Fishery Management Plans and Schemes of Assistance: engagement with Europe and promotion of derogations may be required.

- The effective development of the world class renewable energy resources around the islands with genuine community participation and benefits, and appropriate connections to export the energy to be generated.

Location-based:

- Support to agriculture, to address costs specifically arising from remoteness, such as sea transport.

- Sustainable transport: effective transport links to maximise Island resources, and effective engagement with the EU to seek appropriate targeting of structural fund assistance.

- Mainland/Island ferry services and inter-islands ferry services being commissioned, funded, operated and controlled from the Islands to meet island needs, with appropriate resource transfer.

Governance-based:

- Potential changes to fiscal arrangements to allow the islands to benefit more directly from the exploitation of local resources.

- Recognition of the status of Islands in the new Scottish Constitutional Settlement (regardless of the result of the Referendum) and within the European Union Governance Framework, taking into account the opportunities available to enhance islands' status and representation at EU level.

- Public Sector Reform: continued development of the integrated public authority concept, in the context of enhanced Community Planning with a view to achieving better local decision making and greater efficiency within the provision of public services.

- Clarification of the role of HIE and any adjustment required to promote greater integration.

- Possibility of extension of the principle of promotion of local legislation to other island areas, or in support of specific developments.

Culture-based:

- Continued support for the Outer Hebrides as the heartland of the Gaelic language, and for promotion of the Orcadian and Shetlandic dialects and recognition of the Nordic aspect of the culture of the Northern Isles.

- Further promotion of the disproportionately strong contribution of Scotland's islands to the culture, language, history and natural resource of Scotland.

10. In relation to the findings of the Montgomery Committee that Acts of Parliament should include, wherever appropriate, a provision to vary their application to the Islands areas, it is suggested that such a provision could address issues such as welfare reform/bedroom tax. It is also suggested that the last governmental response to this recommendation - the current provision in the Scottish Parliament Standing Orders that in the policy memorandum for any Bill there be an "assessment of the effects of the Bill on…Island communities" - is inadequate. The practice of Orkney Islands Council in raising Islands issues where at all possible in response to Scottish Government Consultations such as in relation to the recent Community Empowerment and Renewal Bill consistently reiterates this and will be adopted by the other Island Councils.

11. It is hoped that these issues which have drawn on the Reports submitted to each of the Island Authorities and which look to securing our islands' position in the new Scottish constitutional framework, will act as a useful starting point for lobbying/engagement.

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