



Special Shetland Islands Council

10 October 2014

Constitutional Reform	
CE-05-F	
Report Presented by Chief Executive	Chief Executive's Department

1.0 Introduction

- 1.1 This report sets out the document "*A Framework for the Islands*", for noting and establishes a refreshed project structure for the next phase of the Council's Constitutional Reform project.

2.0 Decision Required

That the Council RESOLVE to:

- 2.1 NOTE the content of the UK Government's "Framework for the Islands",
- 2.2 DELEGATE authority to the Chief Executive, working with the Political Leader and supported by a Project Sounding Board, to deliver the proposals set out in section 4 of this report for the future direction of the constitutional reform campaign; and
- 2.3 NOMINATE participants for the Project Sounding Board.

3.0 UK Government "Framework for the Islands"

- 3.1 The Council last considered the subject of constitutional reform at its meeting on 2 July 2014, when the Scottish Government's "*Empowering Scotland's Island Communities*" document (the *Prospectus*) was reported for noting. At the time, it was acknowledged that dialogue was ongoing with the UK Government around the proposals they wished to make in response to the Our Islands Our Future (OIOF) campaign.
- 3.2 A "Framework for the Islands" (the *Framework*) was launched on 15 August 2014, at which point it was acknowledged that there was insufficient time for the Council to consider the document before the pre-referendum election period took effect. Therefore, it was received on the basis that a report would come to Members for discussion.

- 3.3 The *Framework* is attached to this report as Appendix 1. A strict comparison with the *Prospectus* is not possible, since the powers of each Government and, as a consequence, the subject of the negotiations, were not the same. However, Members may wish to discuss the contents of the Framework.

4.0 Shetland Islands Council's Constitutional Reform Project

- 4.1 The Council's constitutional reform project, initiated in April 2013, was structured on the basis of there being a first phase that ran through to the Independence Referendum taking place. That phase was characterised by the objectives to work together with our colleagues in the Western Isles and Orkney, structure a campaign with a robust lobbying strategy, create the opportunities to engage with the right people on the issues that had been identified and seek to make a meaningful impact. At a strategic level, we sought to develop cross-party support for the campaign's principles and achieve published Statements of Intent that could be used to hold both sides to account regardless of the referendum result. Those project objectives have been met.
- 4.2 The strategic objective of the Council's campaign, which aligns with that of OIOF, remains to seek to achieve the best outcome possible from the opportunities that arise. Although a great deal has been achieved by efforts to this point, there is an expectation to see the delivery of tangible benefits for the islands. It would seem appropriate to use that drive for delivery as the strategic mandate for Phase 2 of the Council's project going forward. Specifically, this means going forward, we will :-
- i) Pursue delivery of the *Framework*.
 - ii) Pursue delivery of those parts of the *Prospectus* that can be delivered without full independence or through enhanced powers devolved to the Scottish Government.
 - iii) Ensure Shetland's position is put forward strongly at every opportunity, to secure the best possible outcomes for Shetland.

It was acknowledged at the start of the OIOF campaign that the three islands shared common challenges and that there was significant gain to be had by adopting a joint approach to lobbying. It was also acknowledged however that there may be occasions when the islands' interests or lobbying positions may differ and that on those occasions individual lobbying by the islands may be appropriate. This would seem to be a sound basis on which to continue to participate in the OIOF campaign, which has been an extremely important and successful lobbying approach to date.

- 4.3 Analysis will be carried out of the "asks" which were put forward to both sides during the independence debate. This may feed in to future

lobbying work, taking account of the changing political landscape and the opportunities that may present themselves to press further on things that were not offered to the islands in the two published documents.

- 4.4 It is important that we are mindful of the changing national political environment and the work now being progressed by the Commission under Lord Smith of Kelvin. Details of the work of the Commission are attached as Appendix 2. Members have indicated that they are keen to make a meaningful submission to that Commission as a Council and as part of the OIOF campaign in the coming weeks, as well as progressing early dialogue with both UK and Scottish Governments. Those strands of work are progressing. Members will also be aware of the report published by the Commission on Strengthening Local Democracy "*Effective Democracy: Reconnecting with communities*". The report closely aligns with a number of the lobbying principles established through the Council's project and the OIOF campaign and Members may wish to reflect on its significance to future work on the constitutional reform project.
- 4.5 Now is also a good time to refresh the Council's project structure to ensure that we give ourselves the best possible chance of achieving our objectives from this crucial process. A proposed project structure is attached as Appendix 3. This has been developed through discussions with Members and officers and will help to provide a more robust support network to the Council's campaign.
- 4.6 Within that structure is the proposal to create a Sounding Board for the Council's project. This would be an informal group that would provide operational direction on the Council's constitutional reform project and help ensure regular communication on the project with internal and external stakeholders. Members are asked to nominate a representative from each Ward to join the Leader on the Sounding Board.
- 4.7 It is also evident that a more robust officer support network needs to be created, so we are making the most of our existing skills and experience. An officer project team, under the Chairmanship of the Director of Development Services, is set out in Appendix 3 for noting.

Implications

Strategic

5.1 Delivery on corporate priorities

The Council's strategic objective in this project, as stated at the outset, was to secure the best for Shetland, now and in the future. That is very much in line with the objectives of the Shetland Islands Council and the Shetland Partnership Board. Maximising the opportunities and managing the risks in significant constitutional reform is key to that.

5.2 Community/Stakeholder Issues

Reflecting the apparent heightened political awareness that came about with the referendum, there is perhaps more than ever, an opportunity to engage with Shetlanders on the campaign as we drive forward towards achieving meaningful and real benefits for the islands.

This report sets out the next phase in the campaign, where the focus will be on ensuring delivery. It will be important as we progress through that phase, that our partners, members of the Shetland public and key stakeholder groups are given an opportunity to hear about campaign progress and be involved.

Appendix 3 sets out a refreshed project structure, which includes strengthened internal communications arrangements.

Progress will be presented to the full Council and the Shetland Partnership Board on a regular basis. The next report will come to Members in December. Regular press releases will also be issued through the local press and the Council's webpages.

5.3 Policy and/or Delegated Authority

The implications of major constitutional reform could affect any of the arrangements within the Council's Policy framework and indeed the Council's constitution itself. Approving, adapting or amending any plan within the policy framework is reserved to full Council (Part A - 3(1)).

5.4 Risk Management

Constitutional reform offers potentially significant opportunities for Shetland, but equally recognised, also present possible threats. This project is featured as a priority in the Council's Corporate Risk Register and risks are monitored on a regular basis.

5.5 Equality, Health and Human Rights - None.

5.6 Environmental – None.

Resources

5.7 Financial

Members have questioned whether the support that has been provided to the project during phase one will be adequate for this next crucial phase.

Over the past 18 months, the Council has supported the OIOF campaign without any dedicated resource. An internal support group of officers led by the Chief Executive has provided input to the campaign and there has been project support, but it is acknowledged that this needs to be strengthened. The refreshed project structure seeks to make the best use of the experience and skills that already exist within the Council, but the project cannot be expected to deliver significant results with no budgetary provision.

It is proposed that the project progresses on the basis that budgetary provision for the campaign continues to be drawn from the existing Organisational Change fund, as directed by the Chief Executive and approved by the Executive Manager – Finance. This will come within the budgetary envelop set out in the Medium-term Financial Plan, representing prioritisation of existing funding, rather than requiring additional funds.

5.8 Legal – None.

5.9 Human Resources – None.

5.10 Asset and Properties – None.

6.0 Conclusions

6.1 This report has set out for Members the *Framework* that was published by the UK Government on 15 August. It has also set out a future structure for the Council's project arrangements, with the aim of putting our future efforts in this area onto a stronger and more sustainable footing. It is hoped that by doing so, it will maximise our chances of making the most out of the opportunities that the coming weeks and months represent.

For further information please contact:

Mark Boden – Chief Executive

01595 744501 chief.executive@shetland.gov.uk

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Appendix 1 - A Framework for the Islands

Appendix 2 – Guidance on the Commission led by Lord Smith

Appendix 3 - Shetland Islands Council – Constitutional Reform Project arrangements

END

UK GOVERNMENT AND THE THREE SCOTTISH ISLANDS COUNCILS*: A FRAMEWORK FOR THE ISLANDS

* Comhairle nan Eilean Siar, Orkney Islands Council and Shetland Islands Council.

Preamble

This framework has been established in response to a joint campaign, “*Our Islands Our Future*”, generated by the three Islands Councils. The Islands Councils already have a distinct relationship with the rest of Scotland and the UK as the first unitary local authorities in Scotland, with a history of agreements recognising their particular circumstances, such as the Orkney County Council Act 1974 and the Zetland County Council Act 1974.

The three Islands Councils are unique in Scotland in serving only island communities, and this document recognises that the three Islands Councils have chosen to adopt a collective position in dealing with the UK Government on certain matters. This is intended to offer a structure to govern relations on those matters, given the division of responsibilities in Scotland for reserved and devolved matters, with the focus on matters reserved to the UK Government and on the interaction between reserved and devolved matters.

The UK Government has a broad range of responsibilities in Scotland, and across the UK. In developing policies and activities, the UK Government consults and informs a wide range of stakeholders, including local authorities in all parts of the UK, as appropriate. This framework sets out working arrangements between the three Islands Councils, working together, and the UK Government on issues that the three Councils have raised with the Government and for which the UK Government holds lead or shared responsibility.

Drawing on the principles established by the 1984 Montgomery Commission, the UK Government and the Islands Councils are agreed that opportunities should be taken whenever possible to consolidate, develop and extend the powers of the Islands Councils in a continuing process of development in the local government in the islands. The UK Government and the Islands Councils support the principle of Islands Proofing to seek to ensure that policy and legislation take account of islands’ circumstances, where practicable.

The island groups are thriving communities with great potential in a number of areas, most notably through development of energy resources. However these island groups represent the most remote, hard-to-reach parts of the United Kingdom and this geographical remoteness presents specific challenges to exploiting their economic and social potential in full. The islands have lower population densities than most parts of Scotland and the rest of the UK, including other island areas, with urban and rural populations on the islands classified as very remote and scattered. These demonstrable markers have an impact on service provision, profit limitations on local businesses and market challenges in provision of connectivity. The combination of these circumstances warrant additional steps to ensure that their perspective is considered properly within the UK Government.

This framework outlines proposals which the UK Government, working with the Islands Councils, will take forward in implementing and developing those additional steps, underpinned by the principle of Island Proofing.

The UK Government is committed to supporting the islands to thrive and develop their strengths in renewable energy, food and drink, tourism, textiles, culture and other local industries, and to assist where possible to overcome challenges posed by geographical remoteness.

The UK Government recognises the unique contribution that the Scottish islands make to the United Kingdom and is firmly of the belief that their potential can be fully realised as part of a prosperous, thriving UK economy and society.

It is noted that, in particular cases, many island and rural communities in Scotland face some similar challenges. This framework does not exclude or supersede those interests and, where applicable, bilateral discussions will be held with other areas with similar interests.

A prosperous agenda in the UK for the Scottish Islands

1. Shetland, Orkney and the Western Isles form three archipelagos of islands with unique circumstances owing to their geographical position. This presents a range of opportunities and challenges for inhabitants and businesses based in these communities. This framework establishes guiding principles and an agreed structure for co-operation between the UK Government and the collective interests of Comhairle nan Eilean Siar, Orkney Islands Council and Shetland Islands Council.
2. All parties commit to the principle of subsidiarity, aiming to support decision-making as close to local communities as possible. This principle underpins the expectations on each of the parties as set out in this document.
3. In relation to the European Union, Article 5 of the Treaty on the European Union (TEU) and Articles 170 and 174 of the Treaty on the Functioning of the European Union (TFEU) place obligations on the institutions of the European Union to apply the principle of subsidiarity, encourage economic, social and territorial cohesion, and support universal access in transport, telecommunications and energy infrastructures. All parties reaffirm the importance they attach to the EU institutions fulfilling these obligations and that an aim of this framework is to improve their practical application in Shetland, Orkney and the Western Isles. The UK Government also reaffirms its commitment to the principle and fulfilment of Article 175 of the TFEU, which requires Member States to conduct their economic policies and coordinate them in such a way as, in addition, to attain the objectives set out in Article 174.
4. The UK Government and the three Islands Councils affirm their mutual commitment to work together on a range of economic, social and cultural priorities with the shared aim of boosting economic growth and realising the full potential of Shetland, Orkney and the Western Isles. This co-operation is for the mutual benefit of all parties and intended to give assurance that working relationships will be conducted in an agreed and helpful manner. Good communication in both directions and avoidance of surprises for either party will form the basis of co-operation. Therefore, the framework particularly covers arrangements for consultation and exchange of information.
5. The Leaders and Chief Executives of the three Islands Councils will host a summit with the Secretary of State for Scotland on an annual basis to discuss matters of strategic importance and implementation of the framework. The agenda will be set by the Islands Councils, in consultation with the Scotland Office. Deliberations will operate on the basis of full openness and transparency, and any bilateral relations with individual Councils party to this document will continue in the usual manner, with other Councils notified as appropriate.
6. This framework is a statement of political intent and it does not create legal obligations between the parties. It is intended to be binding in honour only. Nothing in this framework should be construed as conflicting with the Memorandum of Understanding and associated concordats held with the Scottish Government and other Devolved Administrations.

Communication, consultation and co-operation

7. It is in the interests of all parties that public policy development takes account of any particular impact on islands communities. With that in mind, arrangements will be put in place to establish and maintain good communication and understanding of each party's priorities and requirements as part of the policy development process. The UK Government and the three Islands Councils will:

- keep the other fully informed of relevant developments within their areas of responsibility, wherever possible in sufficient time to enable the other party to comment on the proposals;
- give appropriate consideration to the views of the other party; and
- where possible, notify the other party prior to publicising a relevant proposal for action.

Part I – general provisions

8. In order to ensure that UK Government policies and legislation take account of the priorities of the three island groups, the UK Government through the Scotland Office will establish a dedicated desk officer function to work directly with the three Islands Councils. This function will support Islands Proofing of the policy and legislative programme, in collaboration with the Islands Councils and other Government Departments. The officer will report to the Secretary of State for Scotland and the Director of the Scotland Office.

9. Islands Proofing aims to assist the UK Government to consider how particular measures impact on the Islands areas and, where it is appropriate to do so, ways to adjust these policy or legislative measures accordingly. This process is intended to be collaborative, drawing on support from the Islands Councils to understand the impact on those areas. The Scotland Office will work cooperatively with the three Islands Councils on relations with the UK Government, will provide assistance (at Ministerial level if necessary) to seek resolution of issues and will serve as a dedicated channel of communication with the Cabinet Office and other UK Government Departments to ensure that the priorities of the three island groups are incorporated into policy and legislative development.

10. The three Islands Councils will prepare an Annual Statement of Collective Priorities to assist the awareness and understanding of the UK Government of their requirements. This Annual Statement will:

- form the underpinning basis for annual discussion between the three Islands Councils and the UK Government;
- be the basis for the formation of joint strategies on specific policy priorities between the UK Government and the three Islands Councils; and
- be the basis for an annual meeting between the Secretary of State for Scotland, on behalf of the UK Government, and the three Islands Councils.

The annual meeting will allow discussion of both the Annual Statement of Collective Priorities and matters of strategic importance relating to implementation of the framework. This meeting will be informed by work prepared by the UK Government in collaboration with the Islands Councils on the policy and legislative programme and its implications for the islands.

11. Regular working arrangements will be agreed between all parties, with support from the Islands Councils to ensure that the Scotland Office is provided with an appropriate level of information on the Islands Councils' activities and priorities.

Review

12. This framework will be reviewed one year after it comes into effect, and thereafter at two-year intervals. Either party may request an additional review if they consider it necessary - for example, to propose addition of further areas as new policies develop or to consider the requirement for any legislation. Any changes made to the framework will be with the agreement of both parties.

Part II - economic development

13. The economies of the island groups are focussed on a number of key industries which, in the case of fishing, agriculture, aquaculture and oil and gas, are of national importance. Wave and tidal energy resources around the islands hold great potential to make a vital contribution to UK ambitions on renewable energy. Textiles and food and drink produce have had renowned commercial success with a number of well-known brands achieving strong global export success. The distinctive cultural identities of the islands, coupled with great natural beauty and local creative industries have resulted in a developing tourism sector.

General economic and fiscal priorities

14. The UK Government and the three Islands Councils are committed to supporting the economic growth of these sectors and using the UK's extensive diplomatic and trade network to promote exports, tourism and European policy priorities. The three Islands Councils and the Scotland Office will establish an Islands Working Group to discuss and help drive forward work on key economic, social and other priorities. The detailed working arrangements for the Islands Working Group will be agreed between all parties, but at a minimum, it will meet three times a year and benefit from the appropriate involvement of lead UK Government Departments.

15. Through this Group or other channels as needed, the Scotland Office is committed to facilitating dialogue between lead UK Government Departments and the Islands Councils on fiscal, legal or other measures that could be introduced to overcome challenges exacerbated by location and associated costs. Key priorities identified for consideration include fuel poverty, transport, construction costs and community benefit. One item for discussion will be the status of the Islands and how to best ensure that their specific needs are represented at the EU level in order to encourage economic, social and territorial cohesion, and to support universal access in transport, telecommunications and energy. The Islands Councils are also committed to making the case for Islands Innovation Zones to attract investment and support local businesses, and the UK Government will work with the Islands Councils to consider whether reserved policy areas could play a role in meeting this ambition.

16. Whilst recognising that any solution for the islands would need to be tailored for their particular circumstances, the UK Government and the Islands Councils agree to work together to explore whether the lessons learned through the City Deals process pioneered by the UK Government in England and, most recently, in Glasgow, could offer a framework to help address the unique economic and social needs of communities on the islands. The UK Government and the Islands Councils would seek close cooperation with the Scottish Government where any elements fall within the responsibilities of the Devolved Administration.

17. To promote economic development and to ensure an islands voice at the heart of strategic decision-making and policy formation, the three Islands Councils will

- be invited to nominate a representative from the local business community to sit on the Scotland Office's Scottish Business Board which meets regularly with the Scottish Government, relevant UK Government Departments and key Scottish business figures to agree strategic priorities for economic growth in Scotland; and
- be invited to contribute to the Scotland Office's input to HM Treasury ahead of the Budget. The Scotland Office, following consultation with the Scottish Business Board and the wider Scottish business community, provides input to HM Treasury ahead of the Budget and other fiscal events. Submissions from the three Islands Councils will be factored into the Scotland Office submission.

Energy

18. The three island groups are vital to meeting the UK's energy needs. Oil reserves around the island groups are well-established, with significant facilities on Shetland and Orkney to support the oil and gas industry. The UK Government is committed to working with the Islands Councils to assist strategic decision-making on future priorities for the oil and gas industry. The Islands Councils have a clear interest in future decommissioning activity involving cost implications for local authorities, other major infrastructure alterations, environmental protection and marine safety.

19. The three Islands Councils are invited to send a representative to the UK Government-chaired PILOT Forum (the principal pan-UK government-industry body) for any meetings with a bearing on their interests. With agreement of the Secretary of State for Scotland and the PILOT secretariat, the Islands Councils may submit papers through the Secretary of State for Scotland to inform Forum meetings. The UK Government also proposes to establish and host a dedicated Islands Oil and Gas Forum for the three Islands Councils and industry leaders examining strategic priorities for the industry and their impact on the islands. This forum, supported by the Department of Energy & Climate Change, will consider future strategic and operational activity, environment and safety matters, onshore and offshore decommissioning activity relating to the islands and support for community benefit. The islands have an important role supporting the oil and gas industry to thrive and succeed, and the UK Government will encourage industry to mitigate the impact of its activities on local communities.

20. Harnessing the power of wind, wave and tidal resources on and around the islands will power renewable energy generation, helping to meet the UK's low carbon targets and reduce dependence on fossil fuels in the long term. The islands' contribution is essential both to UK renewable energy deployment and to world-class research and development in this new industry. The UK is a world leader in wave and tidal technology, with real opportunities for tidal stream and tidal lagoon power to come on stream over the next decade. The islands play a very important role in these, and other forms of generation.

21. As part of the UK, the costs of subsidy for renewables deployment are shared across all Great Britain (GB) consumers. These subsidies take account of the costs of connecting different generation to the transmission network associated with, for example, offshore wind and renewables on the islands. The UK Government is committed to a series of actions to support renewables deployment at scale on and around Shetland, Orkney and the Western Isles, and will pursue specific measures to support development of renewables in areas of Scotland with considerable energy potential but challenging conditions for developers. As part of the Contracts for Difference (CfD) incentive scheme, the UK Government announced

its intention that onshore wind generators on Shetland, Orkney and the Western Isles would be eligible for a higher level of support to overcome the additional costs faced by generators, including underwater transmission links and significantly higher operation costs. Noting the obligations imposed by EU Directives, the UK Government is committed to pursuing state aid approval for this tailored CfD scheme, allowing the higher capital and operational costs to be shared across the GB consumer base and generating greater commercial viability for renewables deployment on and around the islands.

22. The UK Government shares the three Islands Councils' ambitions for deployment of renewable energy and for research and development activity, and we will work to ensure that obstacles to securing the necessary infrastructure are tackled effectively. The UK Government is committed to working with the Islands Councils to assist strategic decision-making on future priorities for the renewable energy industry affecting the Islands. The UK Government is working through the Scottish Islands Renewable Energy Delivery Forum, involving the Islands Councils, Scottish Government, industry and other key partners, to help deliver substantial progress on renewable deployment. Agenda, remit, membership and frequency of meetings will be set in consultation with other partners in the group. The Forum aims to reach agreement on a set of actions and timescales to work towards connecting the Scottish islands to the GB transmission grid and thereby enable the development of renewable energy at scale on the three island groups. The future of transmission links to the islands is a principal topic of consideration, as well as other ways to promote the success of the industry. Discussions will also cover consideration of future support mechanisms, exploration of R&D funding possibilities and a review of processes to give needs cases the best chance of success.

23. The UK Government is committed to a UK energy framework that ensures security of supply and reduces dependency on fossil fuels, while protecting the interests of consumers. As part of the UK's approach to managing the energy system as a whole, consumers in Shetland, Orkney and the Western Isles benefit from schemes which support and protect consumers and businesses. Specific provisions exist to support the operation of gas networks supplying Scottish customers not connected to the main Great Britain (GB) gas network. Domestic and non-domestic consumers in northern Scotland also benefit from protection from the high costs of distributing electricity over a remote and sparsely populated area. Following the review of the Common Tariff Obligation, the UK Government concluded that domestic consumers in northern Scotland, including Shetland, Orkney and the Western Isles, should continue to be supported, and the UK Government is consulting on the best way to continue support for non-domestic consumers on Shetland. The UK Government's proposed intervention would provide long-term regulatory certainty for non-domestic consumers. The UK Government will work with the Islands Councils on how best to support these objectives in their areas.

24. The UK Government is supportive of the principle of ensuring communities benefit from exploitation of the resources in their local area and recognise the value of greater community ownership, in giving communities a greater share of the benefits of renewable electricity generation and increasing support for deployment. Through the Community Energy Strategy, the UK Government is supporting local authorities and community groups to lead action locally, recognising the lead role of the Islands Councils in securing equitable benefit for their communities, particularly for major development. The UK Government has a Community Energy Contact Group made up of expert practitioners from across the UK and, in addition, the UK Government has convened an industry-led Taskforce to work with the community energy sector. This Taskforce is developing an action plan for substantially increasing the offer of shared ownership of renewables schemes to local communities. In case this is not successful, backstop powers will be introduced in the Infrastructure Bill 2014/15. If exercised these powers would give communities the right to buy a stake in their local renewable electricity schemes. The right to the offer of shared ownership would give

communities the ability to invest in the power system on their doorstep – reaping the financial investment and ensuring these developments stay tethered to their local communities. The UK Government will work closely with the Islands Councils to ensure that their interests are considered in this context.

The Crown Estate

25. Governed by the Crown Estate Act 1961, The Crown Estate is responsible for managing parts of the foreshore (high to low water mark) and almost all the seabed in and around Shetland, Orkney and the Western Isles. The three Islands Councils, as well as other local stakeholders, therefore have an interest in the management and operations of the Crown Estate in these areas.

26. The Crown Estate is fully committed to improving its accountability and securing greater public confidence, working in partnership with the three Islands Councils. All commitments relating to The Crown Estate are subject to the terms of the Crown Estate Act 1961. The Scottish Commissioner has special responsibility for Scotland, including the interests of Shetland, Orkney and the Western Isles. This appointment is made on the recommendation of the Chancellor of the Exchequer following consultation with Scottish Ministers and with the Secretary of State for Scotland.

27. The Scottish Commissioner and the Scottish Leadership Team, reporting on progress quarterly to the Secretary of State for Scotland, will undertake an in-depth programme of engagement with the three Islands Councils to ensure that their concerns are fully considered by The Crown Estate in its activity. This activity will be governed by an Engagement Charter, to be developed by autumn 2014 in consultation with local authorities.

28. This will include best practice principles for liaison with local authorities, commitments to response times for written queries on operational matters and an escalation process for any issues relating to The Crown Estate activity. The three Islands Councils will hold a seat to represent collective interests on The Crown Estate's Scottish Liaison Group (SLG), as well as seats on sub-groups on aquaculture and renewables. The SLG's core remit is to ensure regular dialogue with The Crown Estate's Scottish Leadership Team on strategic priorities, key activity, the Scottish business plan and engagement. Representation on the SLG will be determined by the Councils and rotated as necessary.

29. Working through the Inter-Ministerial Strategic Group on The Crown Estate, The Crown Estate will respond positively to demands for financial transparency on its gross revenues and investment property portfolio in the islands, based on audited accounts. The three Islands Councils will receive an annual briefing on The Crown Estate's annual Scotland Report on financial matters. The Crown Estate will work in partnership with the Islands Councils where investments are being made in their areas, to better understand local priorities and improve links with communities.

30. The Crown Estate is required by statute to operate on a commercial basis. Under section 4 of the 1961 Act, it can award monetary contributions if it either has a direct or indirect commercial benefit to the Estate or for the education or spiritual welfare of those residing on or employed on Crown land. Various mechanisms have been put in place to transfer operational control of these foreshore assets from the Crown Estate to local communities.

31. The Crown Estate, through the Scottish Commissioner and the Scottish Leadership Team, will agree the most appropriate mechanisms to maximise community ownership, operational control and management of the foreshore assets within the terms of the Act. The seabed is a national asset and there are benefits to managing its use in a strategic way

to ensure a stable investment proposition. Against that background and taking each case on its merits, The Crown Estate is prepared to work with local authorities to create long term operational interests in seabed in line with its published guidance, through leases and licences and, in exceptional circumstances, sales also. The Scottish Commissioner and the local authorities will report quarterly to the Secretary of State for Scotland on progress towards transfer, and on an annual basis to the Inter-Ministerial Strategic Group. The UK Government and the Islands Councils will also consider mechanisms for expansion of the works licences regime to give Councils greater say over developments in their areas, in consultation with the Scottish Government as appropriate.

32. The Crown Estate has an important role as an investor in some key industries. The Crown Estate invests in aquaculture research and development activity each year to support sustainable development. In consultation with local authorities, The Crown Estate will develop a process to collaborate with the island groups in proposing and developing aquaculture research projects. The Crown Estate will ensure that local authorities with a significant interest in the industry are able to contribute to the commissioning process. As an investor and key stakeholder in the offshore renewable industry, The Crown Estate will participate in the Scottish Islands Renewable Energy Delivery Forum, subject to the views of the membership.

33. Subject to local agreement, the three Islands Councils and The Crown Estate will prepare Memoranda of Understanding governing direct relations with each local authority, or a collective Memorandum with all three Islands Councils, if appropriate. The Memorandum will set out a joint commitment to collaborate and cooperate on industry matters of mutual interest. The Secretary of State for Scotland retains a power of direction under section 1(4) of the Crown Estate Act 1961 and submissions for use of this power may be received as necessary.

34. It is recognised that these measures alone do not meet the Islands Councils' aspirations on devolution of The Crown Estate; however these steps are intended to represent progress towards greater transparency and accountability.

Transport, postal and digital connectivity

35. As set out in the Preamble to this framework, due to their geographical remoteness, the island groups face particular challenges in securing infrastructure through commercial means, requiring intervention by both the UK and Scottish Governments to support development.

36. On transport, many elements are devolved responsibilities. However the UK Government commits to working with the Scottish Government as required to support measures designed to improve transport connectivity to the islands, using its influence within the European Union. Part III of this framework sets out steps to improve Islands Councils' involvement in EU decision-making. The UK Government is committed to working with the Scottish Government to seek extension to the Air Discount Scheme and to offering assistance on operating aid for ferries as needed.

37. As set out in paragraph 12, through dialogue with the Islands Councils, the UK Government commits to considering fiscal measures to support transport connectivity with the island groups. The UK Government sought and received derogation from the European Union to establish a rural fuel rebate scheme for the islands until 2017. When the time comes to consider the scheme's renewal, the Islands Councils will be invited to provide submissions if necessary. The Islands Councils are committed to making the case for extending the scheme to cover heating oil. Submissions and views from the Islands Councils on the scheme will be considered by the UK Government.

38. In accordance with the provisions of the Postal Services Act 2011 and the exceptions referred to under section 33, the UK Government is committed to ensuring that all parts of the UK have:

- a) at least one delivery of letters every Monday to Saturday;
- b) at least one collection a day (Monday to Saturday) of letters from every access point in the Islands that is used to receive letters and postal packets for onward transmission;
- c) postal services at an affordable, uniform tariff across the UK, and ensuring that the Islands have parity with the common uniform tariff;
- d) collection and delivery of postal packets (letter, parcel or packet or other article transmissible by post) as part of the universal postal service) at affordable, geographically uniform prices five days a week.

39. The UK Government is committed to working with retailers, consumer groups and enforcers to ensure parcel delivery charges to remote regions are fair and transparent, in line with the UK statement of principles for parcel deliveries. The principles apply across the whole of the UK and set out best practice for businesses, including couriers, e-retailers and parcel delivery firms, on how they can make sure that delivery charges for consumers in remote communities are clearer and more transparent. It aims to ensure shoppers buying online will be charged a fair delivery price, be given delivery cost information upfront and get clear directions to the terms and conditions. Online retailers should also make sure that their pricing policies do not discriminate against consumers on the basis of location.

40. Digital connectivity is of great importance to local inhabitants and businesses on the islands, requiring subsidy from both the UK and Scottish Governments to overcome the geographical and commercial challenges in delivery of these services. The UK Government is committed to funding the Mobile Infrastructure Project, working to provide improved mobile coverage in areas of the UK which are most difficult to reach, aiming to address market failures in these areas.

41. The UK Government has committed 10% of the whole UK budget for the original Rural Broadband Programme to the Highlands and Islands region, including provision of subsea cables to bring fibre broadband to the islands, and supplied additional funding to the Scottish Government to support roll-out in Scotland. The UK Government has advised that broadband projects for the Highlands and Islands area, due to complete in 2016 should include a requirement to provide standard broadband of at least 2Mbps to all premises. The UK Government is therefore committed to providing parity of minimum service level between the UK mainland and islands areas by delivering standard broadband of at least 2Mbps to all premises in Orkney, Shetland and the Western Isles. Working closely with the communications industry, the UK Government is committed to funding research to identify new technologies to support delivery of superfast broadband services to the most difficult to reach areas of the UK. The UK Government will also work collaboratively with the three Islands Councils, as well as the Scottish Government and Highlands and Islands Enterprise, to identify how these technologies can be implemented in Orkney, Shetland and the Western Isles.

Part III - international and EU relations

42. International relations and relations with the European Union are the responsibility of the United Kingdom Government. In line with the principle of Islands Proofing, the UK Government and the Islands Councils will work together to enable the islands to play their part, along with the local government sector, in influencing EU decision-making and to support other international objectives, including help for exports and trade promotion.

European Union

43. The UK Permanent Representation (UKRep) represents the UK in the EU. UKRep will ensure that, where normal channels of communication are insufficient, the three Islands Councils have a named point of contact to offer advice and guidance to the Islands Councils on relations with the European Union and will work with the Scottish Government Office in Brussels to ensure that the Islands' priorities are properly considered.

44. This role is intended to enhance collaborative working and to complement, rather than duplicate, efforts by existing functions held by the Scottish Government, COSLA and the Highlands and Islands European Partnership. Regular working arrangements will be agreed between all parties, and other interested parties will be kept fully informed of progress.

45. The UK Government is fully committed to providing support for Scotland's priorities in EU negotiations as an integral part of the UK. This must take account of the constitutional settlement, giving decision-making powers to the Scottish Government on many aspects of policy, such as implementation of the Common Agricultural Policy and the Common Fisheries Policy and management of structural funds programmes.

46. Where necessary, lead UK Government Departments responsible for policy decision-making will be consulted or involved in dialogue on specific European priorities. The UK Government will not interfere in the decisions taken by the Scottish Government on how devolved policies are set in Scotland. However the UK Government is committed to working collaboratively with the Scottish Government and the Islands Councils to ensure that the priorities of island communities are considered when the UK Government is developing the position it will take in negotiations. The UK Partnership Agreement should reflect the specific needs of the Highlands and Islands NUTS 2 region and the UK Government will work with the Scottish Government and other Devolved Administrations to ensure it is properly implemented.

47. The three Islands Councils are committed to preparing a joint strategy of collective priorities within the European Union, and to provide UKRep with an appropriate level of information on the Islands Councils' activities and priorities. The UK Government would particularly welcome a local evidence base constructed by the Islands Councils to evaluate the impact of state aid rules, including the *de minimis* aid ceiling and aid of a social character, ahead of the 2021-28 state aid regime renewal and would ensure that, where appropriate, this evidence was drawn upon in making the UK case.

Other international priorities

48. The UK Government will work with the Islands Councils and, where appropriate, other stakeholders, to foster international cooperation with other countries, including those with other remote or island areas. Working through its network of 169 UK Trade & Investment (UKTI) offices worldwide, and alongside Scottish Development International (SDI), the UK Government will promote export growth of products from the Islands and other Scottish products. UKTI will work closely with SDI and, as required, the Islands Councils, to promote islands' businesses across the world. The Islands Councils are committed to working with the UK Government to support key trade and investment priorities for local businesses, and will prepare an export strategy to assist these goals. This strategy will seek to support infrastructure and business development in key sectors with economic potential to provide training and jobs and help to retain a viable working population.

Part IV - joint secretariat

49. All working arrangements to support this framework will be agreed amongst all parties by mutual consent. Working level communication should be channelled in the first instance via the Scotland Office desk officer, involving Ministers and other UK Government Departments as necessary. Existing relations with the UK Government will be maintained, with regular updates supplied to the Scotland Office on relevant matters. The Islands Councils will identify the best means of maintaining regular communication and remain responsible for establishing a collective position amongst the Councils on policy matters.

50. To ensure that arrangements are fully considered and well established, the Islands Councils and the Scotland Office will jointly support a secondee from the Islands Councils to be based within the Scotland Office for an agreed duration to embed implementation of the framework and set priority workstreams in train. The secondee will remain an employee of the relevant Council and report to the Leaders and Chief Executives of the Islands Councils and to the Secretary of State for Scotland on progress. Future secondment arrangements will be determined following the conclusion of this period.

Guidance on the Commission led by Lord Smith

The Smith Commission

“Following the referendum we have a willingness, shared by all five of Scotland’s main political parties, to strengthen the powers of the Scottish Parliament, within the UK.

My job is to create a process through which politicians, civic institutions and the Scottish public can come together, work together and agree the detail of what those powers should be.

To that end, I am working to one aim: to produce a unifying set of proposals by the 30 November 2014.”

Lord Smith of Kelvin

The Smith Commission is tasked to convene cross-party talks and facilitate an inclusive engagement process across Scotland to produce, by 30 November 2014, Heads of Agreement with recommendations for further devolution of powers to the Scottish Parliament.

This process will be informed by a Command Paper, to be published by 31 October and will result in the publication of draft clauses by 25 January.

The commission is simultaneously engaging with three groups:

- political parties, - views by 10th October,
- Scottish civic institutions - views by 31st October, and
- the Scottish public – views by 31st October

The following guidelines for submissions have been published but the Commission are also keen to emphasise that all submissions will be considered.

Submission Guidelines

- What are the **principles underpinning** your proposals?
- What is your assessment of the **current situation**?
- What would be the potential **advantages** to Scotland and the UK as a whole of devolving the power in question to the Scottish Parliament?
- What would be the potential **disadvantages** to Scotland and the UK as a whole of devolving the power in question to the Scottish Parliament?
- To what extent do the **advantages outweigh the disadvantages** (or vice versa)?
- What are the **interdependencies** between your proposal and other key issues?

- Are there any **practical or legal barriers or difficulties** to implementing the proposal?
- What would be the **financial advantages or costs** involved in **implementing** the proposal, and who would bear or benefit from these?

In his call for evidence Lord Smith emphasised *that “arriving at clear principles for the devolution of more powers will be vital to finding a sustainable and lasting settlement and meeting the country’s expectation for significant change”*.

The work that Shetland Islands Council has done with its partners in “Our Islands Our Future” includes a number of areas which may be candidates to recommend for transfer to the Scottish Parliament. There are also areas where our preferred option was to seek a transfer of powers directly to local authorities including Shetland, that is a point we may also want to reiterate.

The devolution of appropriate powers for local determination is a very clear principle-led position and we may regard it as a legitimate argument to represent in these considerations. The overall sentiment being addressed could be described just as properly as a “general agreement to strengthen the powers devolved **to Scotland**” as “....**to the Scottish Parliament**”.

The proposals already developed for greater devolved authority are entirely in line with the underpinning principles of devolution and subsidiarity and also reflect the structures, analysis and conclusions of the “Commission on Strengthening Local Democracy” in which Shetland and the islands were active contributors.

Shetland Islands Council needs to decide how to use the short time available to it within the Commission timetable to further refine and prioritise views within the umbrellas of the campaigns it has supported. It also needs to seek further views from the people of Shetland about the powers they expect to be delivered by this process and to make sure these views are effectively communicated. We are confident these will be the practical Shetland community articulation of the “localism” principles all parties promoted in the referendum campaign.

Smith Commission Website - <http://www.smith-commission.scot/>

Smith Commission Members - <http://www.bbc.co.uk/news/uk-scotland-scotland-politics-29479442>

Shetland Islands Council
Constitutional Reform Project
Project arrangements

Governance

Project mandate:

Going forward into Phase 2, the project's strategic direction and mandate will be taken from the reports to Shetland Islands Council on 24 April 2013 and 10 October 2014 as well as the Council's agreed Policy Framework documents and the Shetland Single Outcome Agreement. Specifically, this will focus on the following areas:

- Pursue delivery of the UK Government's *Framework for the Islands*.
- Pursue delivery of those parts of the Scottish Government's document "Empowering Scotland's Islands" that can be delivered without full independence or through enhanced powers devolved to the Scottish Government.
- Ensure Shetland's position is put forward strongly at every opportunity, to secure the best possible outcomes for Shetland.

Project Sounding Board

A Sounding Board will be formed to widen out involvement and improve Member buy-in to the project going forward. Membership will consist of:

Political Leader

1 representative from each Ward.

Total membership – 8 Members.

The Board will:

- Provide operational direction on the Council's constitutional reform project.
- Help ensure regular communication on the project with internal and external stakeholders.

Officer Project Board

The Project Board will consist of the following officers:

Chairperson – Director of Development Services

Executive Managers responsible for Executive Services, Transport Planning, Governance & Law, Finance, Community Planning & Development, Economic Development and the Executive Project Manager and Senior Communications Officer.

An informal project team will be developed, as required, and will be dependent on specific actions arising from the Board meetings.