
ISLANDS COMMUNITIES IMPACT ASSESSMENT GUIDANCE - CONSULTATION

1.0 EXECUTIVE SUMMARY

- 1.1 The Islands (Scotland) Act 2018 was granted Royal Assent on 6 July 2018 with the first set of provisions coming into force on 4 October 2018. The Act introduces a number of measures to underpin the Scottish Government's key objective of ensuring that there is a sustained focus across Government and the public sector to meet the needs of island communities.
- 1.2 The Act itself introduced a number of duties that are placed on the Scottish Ministers and Local Authorities in order to deliver the measures and objectives. Part 2 places a duty on the Scottish Ministers to prepare a National Islands Plan.
- 1.3 The Act specifically requires Ministers to consult with local authorities, as well as representatives of island communities in preparation of the National Islands Plan (Part 2) and before issuing guidance on the Islands Communities Impact Assessments (Part 3).
- 1.4 The council responded to the consultation on the National Plan and Islands Communities Impact Assessment in July 2019 and responded again in November 2019 to the Draft National Islands Plan. The Plan was published on 27 December 2019. <https://www.gov.scot/publications/national-plan-scotlands-islands/>. The next stage in regard to the Plan will be the publication of the Implementation Route Map.
- 1.5 The current consultation is seeking views on the Islands Communities Impact Assessment Guidance. The consultation was launched on 12 October and responses are required by 9 November. <https://consult.gov.scot/islands-team/island-communities-impact-assessments/>.

2.0 RECOMMENDATIONS

- 2.1 It is recommended that Council
1. Give consideration and agree to the draft response to the Islands Communities Impact Assessment (ICIA) consultation as included in this report.

2. Agree the points raised in paragraph 5.10.
3. Agree that a formal request is made to Scottish Government that the financial memorandum is revisited and amended to reflect the significant impact on council resources from the ICIA process.
4. Agree to delegate the final formal council response to the Director with Responsibility for Development and Economic Growth in consultation with the Leader of the Council and Leader of the Opposition to allow any further comments to be added in advance of the deadline of 9 November. This will allow consideration to be taken of the discussion at the Islands Sounding Board on 5 November which will be attended by members of the Scottish Government Islands Team.

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3.0 INTRODUCTION

- 3.1 The Islands (Scotland) Bill 2018 received Royal Assent on 6 July 2018. The first Commencement Regulations for the Island Act were laid on 20 September 2018 and came into force on 4 October 2018.
- 3.2 The current consultation, responses required by 9 November 2020, relates specifically to the duties detailed in Part 3 of the Act namely the requirement of relevant authorities, including local authorities and the Scottish Ministers, to have regard to island communities in carrying out their functions, often referred to as island proofing.

4.0 RECOMMENDATIONS

- 4.1 It is recommended that the Council
1. Give consideration and agree to the draft response to the Islands Communities Impact Assessment (ICIA) consultation as included in this report.
 2. Agree the points raised in paragraph 5.10.
 3. Agree that a formal request is made to Scottish Government that the financial memorandum for the Act is revisited to reflect the significant impact on council resources from the current ICIA process.
 4. Agree to delegate the final formal council response to the Director with Responsibility for Development and Economic Growth in consultation with the Leader of the Council and Leader of the Opposition to allow any further comments to be added in advance of the deadline of 9 November. This will allow consideration to be taken of the discussion at the Islands Sounding Board on 5 November which will be attended by members of the Scottish Government Islands Team.

5.0 DETAIL

- 5.1 Part 3 of the Islands Act is specific to duties in relation to island communities: These provisions require relevant authorities, including the majority of public bodies including Local authorities and the Scottish Ministers, to have regard to

island communities in carrying out their functions. One such duty is Island Community Impact Assessments.

- 5.2 In considering the need for an Island Communities Impact Assessment, it is stated under Section 8 (1) of the Act that Scottish Government, local authorities and relevant authorities will “island proof” legislation, policy, strategies and services where those are considered likely to have an effect on an island community which is significantly different from its effect on other communities. Subsection (1) also applies to the development, delivery and redevelopment of the policy, strategy or service (as the case may be). In these cases, it is stated that Island Communities Impact Assessments will ensure that the obligation according to which “[A] relevant authority must have regard to island communities in carrying out its functions” is met. It is also stated that it will be through Island Communities Impact Assessments that the interests of island communities are formally taken into account when decisions are made.
- 5.3 The Islands (Scotland) Act clarifies that an Island Communities Impact Assessment will be carried out by a relevant authority when a policy, strategy or service “is likely to have an effect on an island community which is significantly different from its effect on other communities (including other island communities) in the area in which the authority exercises its functions.”
- 5.4 As previously advised there is a power for Ministers to issue guidance in relation to this duty. This is not currently present in the Island (Scotland) Act and the Act enables Ministers to develop guidance about the duty to have regard to island communities, of which the Island Communities Impact Assessment (ICIA) forms part. The Scottish Ministers are also required to develop regulations “about reviews of decisions of relevant authorities relating to island communities impact assessments.”
- 5.5 This consultation document refers to both tasks. The Act requires Ministers to consult with local authorities, as well as representatives of island communities and others before issuing guidance about this duty. This was also the case for the development of the National Islands Plan.
- 5.6 This is an on line consultation covering the key elements within the guidance documents. The consultation is broken down into sections with a list of questions and then multiple choice options. These can be viewed at <https://consult.gov.scot/islands-team/island-communities-impact-assessments/>
- 5.7 The Council fully support the need to ensure that our island communities are not disadvantaged and therefore agree in principle with the need to undertake island proofing. However this also has to be balanced with the needs of our mainland communities as many of our more remote and peninsular communities face many of the same issues and challenges.

- 5.8 The councils current Equality and Socio-Economic Impact Assessment (EqSEIA) process specifically highlights the need to consider our island communities in the development of any policy, strategy or service and as such the council is already undertaking island Impact Assessments (IA's).
- 5.9 The biggest area of concern for the Council is that there will be a disproportionate impact on Council resources from the ICIA process as proposed in the guidance. The process is much more onerous than the Councils EqSEIA process in regard to the steps that require to be undertaken in order to determine if an IA is in fact required. The resulting resource requirement will be both financial as well as staffing. Notwithstanding the question around the need to undertake the steps as detailed in the guidance, without the provision of additional resources from Scottish Government it is difficult to see how this guidance could be followed as detailed.
- 5.10 The key sections and questions as listed in the consultation along with the areas of concern, are detailed below. It is intended that these will form the basis of the Council formal response.

1. FlowChart – Does this explain the ICIA process?

Whilst the flowchart (See Appendix A) clearly explains the process, the process itself is of concern. The 7 steps as detailed are different from those that we follow with the council's Equality and Socio-Economic Impact Assessment (EqSEIA) process.

Step 1 of the ICIA process is to define the issue, Step 2 to understand the situation taking account of existing data, studies etc. and Step 3 requires formal consultation to be undertaken before an assessment is made if an ICIA is required (Step 4). Step 5 is the preparation of the ICIA itself, Step 6 covers making any adjustments and Step 7 covers the publication of the ICIA.

The very first step of the councils EqSEIA process requires the assessment to be made as to the necessity for an EqSEIA and there is clear guidance as to when an EqSEIA is required. In addition our EqSEIA process already requires an assessment to be made of the impact on our islands.

The concern with the ICIA flowchart and process is that significant work would be required to get to the point where it is determined if an ICIA is in fact required. It is not clear why this level of engagement and associated resource is necessary. In the councils EqSEIA the need for an IA is assessed at the very start of the process. In actively consulting with communities as part of the determination, significant work would be required and an expectation could be created that an ICIA would then be undertaken. In addition, given the number of inhabited islands that the Council has responsibility for, a significant resource would require to be identified were

we to follow the flowchart process as detailed and undertake consultation in every case where an ICIA may be required.

The Council already has to undertake impact assessments (IA) for Equalities and Fairer Scotland Duties, and Children's Rights and Welfare IAs are also on their way. It does not make sense to undertake impact assessments in isolation nor to follow different processes/stages. The IAs will have more strategic power if they can be integrated however this is difficult as each individual guidance and piece of legislation relating to these IAs do not seem to align or cross reference each other. The concern is that this makes for a very cumbersome and resource intensive process.

2. Introduction – Does this clearly state what the purpose of the ICIA's are and provide a clear understanding of the legislative background?

There does not appear to be any guidance in respect of Section 9 of the Act namely the Reviews of decisions relating ICIA. It is important that the council's previous response to the consultation concerning this section of the Act is taken into consideration.

It would also be helpful to clarify the position with regard to ICIA's and their application retrospectively given the impact that this would have on current limited resources with the Council. It is understood that the ICIA's will not apply retrospectively however this should be made clear at the outset.

3. Step by step guide to carrying out an ICIA – See Appendix A

The Council's comments under 1 above would also apply to this section of the Guidance in regard to both the steps as well as the order that they are proposed.

Further to those comments under 1 above, of particular concern, given the impact on resources, is the fact that Step 3 of the flow chart requires formal consultation to be undertaken in advance of the decision being taken as to if an ICIA should be carried out. The guidance under step 3 specifically states the following:

“you should start to speak to the people likely to be affected by your policy, strategy or service. Consultation can give you lots of good information on the likely impact of your work, as well as providing you with a wider context relating to specific islands and the people who live on them. However, carrying out a consultation is just one of the arrangements that the Relevant Authorities may find useful when reviewing their policies, strategies and services.

The most appropriate stakeholders to engage with will vary from case to case, but you should make it easy for people to give their views by using meetings as well as written consultations, ensuring materials are available in different formats such as large print or in appropriate languages like Gaelic.

You should give particular consideration to island communities and how best to ensure ease of participation and it's important to remember that not everybody on an island has or chooses to have access to the internet. We suggest that your questions are tailored and directed specifically to island communities in respect of any proposal. "

There would appear to be significant work involved in step 3 as detailed in the guidance and it is not considered that this level of consultation is something that is necessary or realistic in order to make an assessment on the need for an ICIA. This is not something that we currently undertake in our own EqSEIA process.

Step 4 is the assessment process and from this process the outcome will either be that an ICIA is required or is not required. It requires the provision of detailed information including the outcome from the consultation undertaken in step 3 and the analysis of the results or outcomes, the needs of island communities and the potential impacts. This information needs to be recorded and made available as background to the decision.

If the guidance remain unchanged and the council has to undertake steps 1-4 for every policy, strategy and service there will be a disproportionate impact on Argyll and Bute Council as a consequence of the mix of island and mainland areas and the number of inhabited islands that the council has responsibility for. It is difficult to see how this can be resourced and given the time required to undertake this there will be a significant impact in regard to delivery.

Step 5 is the ICIA itself and Step 6 allows for making any adjustments. There are no specific comments relating to these.

Under Step 7, as well as the reporting of individual ICIA's including when it has been decided not to undertake an ICIA and why, the council would be required (under Section 12 of the Act) to publish information about the steps it has taken to comply with the duty during a reporting period. A reporting period is any period determined by the Relevant Authority of up to a maximum of one year. Relevant Authorities can publish the information in any way it considers appropriate (for example in an annual or other report).

Whilst the council currently publishes EqSEIA as they are carried out the requirement for the annual report would be an additional resource requirement and one that would need to be identified. An annual reporting return template has been provided that can be utilised.

4. ICIA - Would you use the ICIA template when carrying out an ICIA?

The guidance includes an ICIA template. This does not appear to be prescriptive, but it would be good if that could be made clearer. The preference for the Council would be to use an integrated impact assessment template and process.

5. Annual reporting template – Is it clear from the guidance how to complete the annual reporting template?

It would appear to be clear however this will be a new requirement and one that will need to be resourced.

6. Guidance and Toolkit

As well as some general questions the consultation also asks if in any supplementary guidance that is produced would the use of case studies be useful.

Case studies are always a useful tool however all our islands are so different and distinct and it would be important to stress that the need for an ICIA needs to be looked at on a case by case basis and on its own merits.

6.0 CONCLUSION

- 6.1 The Council already has to undertake impact assessments (IA) for Equalities and Fairer Scotland Duties, and Children's Rights and Welfare IAs are also due to be introduced. The council's current Equality and Socio-Economic Impact Assessment (EqSEIA) process specifically highlights the need to consider our island communities in the development of any policy, strategy or service.
- 6.2 It would seem to make more sense to undertake impact assessments in an integrated manner rather than in isolation and following different processes and stages. The IAs will potentially have more strategic power if they can be integrated however this is difficult as each individual guidance and piece of legislation relating to these IAs does not seem to align or cross reference each other. This piecemeal approach does not appear to represent best value for the public purse. The concern is that this makes for a very cumbersome, confusing and resource intensive process.
- 6.3 There is the concern that if the ICIA guidance and specifically the steps as detailed in the flow chart at Appendix A, remain unchanged that there will be a disproportionate impact on Argyll and Bute Council as a consequence of the mix of island and mainland areas and the number of inhabited islands that the council has responsibility for. If the council has to undertake steps 1-4 for every policy decision, strategy and service it is difficult to see how this can be resourced and given the time required to undertake this how anything will be able to be progressed.

7.0 IMPLICATIONS

- 7.1 Policy –The Island Act and specifically the ICIA objective seeks to deliver positive policy and resource support for our islands all of which fits with the objectives of

the Single Outcome Agreement, Economic Strategy and Local Development Plan which seek to deliver sustainable island communities.

- 7.2 Financial –staff resources. The ICIA process as put forward in this guidance will impact on the Council through the introduction of additional duties which will in turn require additional resources. It is considered that this would introduce a significant financial and staff burden that the council could not meet unless additional resources were provided by SG
- 7.3 Legal – none from the guidance document itself
- 7.4 HR – None
- 7.5 Fairer Scotland Duty – The ICIA does not seem to directly reference these duties.
 - 7.5.1 Equalities - No mention is made as to how the ICIA Guidance ties in directly with other Impact Assessment requirements although explicit mention is made of the nine protected characteristics, but no mention is made of the need to carry out and publish Equality Impact Assessments.
 - 7.5.2 Socio Economic Duty – The ICIA process seeks to remove socio-economic disadvantage for residents across our islands.
 - 7.5.3 Islands - The ICIA guidance seeks to ensure that the council takes into consideration our island communities in the development of policies, strategies and services. This is something that the council already does through its own EqSEIA process.
- 7.6 Risk –It is important that the ICIA process and guidance is not overly burdensome to the Council and that the objective is to deliver the best outcome for our islands and that there is clear understanding of the resource implications for the council from the current ICIA guidance
- 7.7 Customer Service – none.

**Executive Director with responsibility for Development and Economic Growth -
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APPENDICES

Appendix A – Islands Communities Impact Assessment – Flow Chart

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Island Communities Impact Assessments

