

**LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE**  
**EUROPEAN CHARTER OF LOCAL SELF-GOVERNMENT (INCORPORATION)**  
**(SCOTLAND) BILL**

**SUBMISSION FROM SHETLAND ISLANDS COUNCIL**

**1. The main aim of the Bill is to make the European Charter of Local Self-Government directly enforceable in Scots law and to require the Scottish Government to act in a way that agrees with the Charter [section 1 and 2]. Do you agree with this?**

Yes. In partnership with Orkney Islands Council and Comhairle nan Eilean Siar, Shetland Islands Council made the case to Scottish Government through the *Our Islands: Our Future* campaign to support incorporation of the Charter into Scots Law. We have also consistently supported COSLA's policy position and see it as making an important contribution to strengthening local democracy.

**2. Section 3 of the Bill puts a general duty on the Scottish Government to support local government. The Scottish Government must also report to the Scottish Parliament about what it has done to support local government at least once every 5 years. Do you support section 3?**

Yes. We supported the provision in the Islands (Scotland) Act 2018 regarding Scottish Government reporting annually to Parliament on delivery of outcomes identified in the National Islands Plan and compliance with duties in relation to island communities. We feel that this provision would, similarly, be an effective mechanism for Parliamentary scrutiny to be applied to Scottish Government's support for local government and would agree with the statement in the Policy Memorandum that this would "*provide visibility of the issues of local government status and standing and provide an opportunity for debate, providing greater transparency and accountability*".

**3. Section 4 of the Bill says all legislation must be interpreted in line with the Charter whenever possible. Section 5 allows a court to make a "declaration of incompatibility". This is a statement that a provision in a piece of legislation is not in line with the Charter. Where this declaration has been made, section 6 gives the Scottish Government power to take action to fix this provision so that it is line with the Charter (section 6). Do you agree with these sections?**

We would support the position provided by COSLA in their response to this point.

**4. Section 7 allows a court to limit the consequences of a ruling that the Scottish Government has not complied with a duty set out elsewhere in the Bill. For instance, the court could provide that the effects of the ruling don't reach back in time. It can also give the Scottish Government some time to take corrective action to address the ruling. Do you agree with section 7?**

We would support the position provided by COSLA in their response to this point.

**5. Do you have thoughts on anything else about the Bill, for example:**

- **how quickly it should become law after it's passed (section 10 says this should happen almost immediately)**
- **what financial impact it will have if it becomes law**
- **if it will have any positive or negative impact on equality or human rights.**

It is noted that the proposed Bill received support from 26 MSPs representing four political parties. It is hoped that all parties would be supportive of formally acknowledging the important role local government plays in the governance of Scotland and the Charter can be passed before the end of this current Parliamentary term. Scottish Government has, over the years, provided support for local empowerment as a principle, with examples including the [First Minister's 'Lerwick Declaration' in 2013](#), ['Empowering Scotland's Island Communities'](#), [Community Empowerment \(Scotland\) Act 2015](#), [Islands \(Scotland\) Act 2018](#), [National Islands Plan](#) and the ongoing [Local Governance Review](#).

Shetland Islands Council passed a [motion](#) at its meeting on 9 September 2020 whereby we will begin to explore options for achieving financial and political self-determination. This has come from growing frustration at decision making being centralised and funding being consistently reduced, but also a positive aspiration and belief in what can be achieved through appropriate resourcing and meaningful empowerment.

Our view is that local government, as a sector, has been deprioritised over the years, with there being a long-standing trend of reducing funding (SIC suffered the [second highest cut in core revenue funding](#) from Scottish Government between 2013/14 and 2018/19) and local discretion on how to spend that funding being ever-more tightly determined by Government ([60% of Council budgets are now focused on delivery of national policy initiatives](#)).

We would highlight the apparent contrast between those experiences and the principles that the Scottish Government and local Government signed up to thirteen years ago. The [Concordat](#), signed in November 2007, was to herald "*a fundamental shift in the relationship between the Scottish Government and local government, based on mutual respect*". Scottish Government also committed to "*stand back from micro-managing service delivery, reducing bureaucracy and freeing up local authorities and their partners to meet the varying local needs and circumstances*".

We believe the nation's COVID response is showing the integral role local government plays in the lives of communities. Excellent partnership working and community engagement, making use of local contacts and applying valuable local knowledge, is ensuring that agile solutions are being found and resources allocated to meet needs. In many ways, this is local government at its best.

However, in responding to the Scottish Parliament's COVID-19 Committee's call for evidence, our Council observed that Scottish Government has not involved local authorities in evolving their response to the pandemic. Our Council has learned of changes to Scottish Government policy from First Minister/Deputy First Minister speeches or guidance at the same time these were issued to the general public. This meant the Government's response has needed adjustments – for instance the

business support schemes were welcomed but had gaps which local authorities were able to identify due to their knowledge of their local economies.

Support for the passing of this Bill could help to reaffirm the status of local government and contribute to efforts to renew local democracy. The 2017 local government election in Shetland saw the first uncontested seat in many years and fielding of two 'paper' candidates effectively resulting in no contest in three out of seven wards. Were this trend to continue, there is a danger that local government could suffer the same fate as many community councils with unfilled seats. We supported the Commission on Strengthening Local Democracy in their 2014 findings and see this Bill as an opportunity to re-establish local government as a properly resourced and valued part of the country's governance structures.

As COSLA has already said in their [initial submission](#) to the consultation on the proposed Bill, if the EU Charter is incorporated in Scots law it "*would deliver the unfinished business of the Scottish Parliament by ensuring that for the first time this partnership between national and local government is built into Scotland's system of democratic governance, and reflected in its day to day culture and practice*".