

Response to the call for evidence by the Local Government & Regeneration Committee for the draft Community Empowerment (Scotland) Bill

by the Scottish Environment LINK Marine Taskforce

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Summary

Scottish Environment LINK's marine taskforce outlines the potential of Community Empowerment Bill to consider issues of public participation in marine planning and decision-making, namely:

- how the process for participation requests could be adopted in the future by Regional Marine Planning Partnerships
- how broader measures in marine planning governance could assist with community empowerment in Scotland

Background:

The members of Scottish Environment LINK's marine taskforce collectively engage on a number of marine policy issues relating to the implementation of the Marine (Scotland) Act; specifically the legal framework for marine spatial planning and marine conservation in Scotland via the development of a National Marine Plan, Regional Marine Planning Partnerships and an ecologically coherent network of Marine Protected Areas.

The main interest of LINK's marine taskforce in the CE Bill is the potential for its provisions to enable community empowerment in relation to marine planning.

The context:

Marine spatial planning is an emerging area in Scotland. It is commonly understood that marine planning in Scotland is 40 years behind the terrestrial planning system, insofar as there has to date been no statutory system that plans, balances and coordinates marine activities in line with national level objectives and commitments to achieve sustainable development. A strategic and responsive marine planning system is urgently required due to the growing competition for limited marine resources: the increasingly varied, interconnected and often competing uses of the sea are occurring within the context of severe ecological decline, documented in the Scottish Government's own Marine Atlas. Coordinating activities to ensure sustainable development and fulfil a legal duty to "enhance" Scotland's seas is therefore critical. The role of communities to help drive this sustainability agenda should not be under-estimated – coastal communities can be the agents of change in marine management and often experience before the wider public the consequences – both positive and negative - of marine policy and planning decisions.

Marine governance in Scotland is complex. The Scottish Government is a signatory to the UK Marine Policy Statement. The Scottish Government has consequent jurisdiction over marine

planning matters from 0 -12 nautical miles and has executive devolved powers (from the UK Government) for marine planning matters from 12 – 200 nautical miles. Marine Scotland takes overall responsibility for most marine planning matters; Transport Scotland is responsible for ferry services, ports and harbours; and Scotland's local authorities currently have responsibilities for aquaculture. This work is also supported by Local Coastal Partnerships.ⁱ There are also considerable overlaps with components of the terrestrial planning system via statutory arrangements such as the River Basin Management Plans of the SEPA-led Area Advisory Groups. In short there is a complex multi-agency governance framework for policy and decision-making in the development, management and conservation of the marine environment. This framework has developed organically and is still developing.

A more regional approach to marine planning issues is now on the near horizon. The Marine (Scotland) Act gives Scottish Ministers powers to establish Regional Marine Planning Partnerships (RMPPs), but this is a work in progress and therefore the development would benefit from strategic join up with a community empowerment agenda. Efforts to 'engage' communities in policy-making via public consultations in recent years has been notable, but for the reasons set out in response to **Question 1** below there is currently reduced scope for meaningful and genuinely community-led policy-making.

This response therefore focusses simply on two aspects of the Community Empowerment Bill:

1. Outcome Improvement processes
2. The future role of Regional Marine Planning Partnerships

1. To what extent do you consider the Bill will empower communities, please give reasons for your answer?

We do not attempt to consider whether the Bill will empower communities generally. We also recognise that the Bill was not designed to empower communities in relation to marine planning. However, for many coastal communities decision-making around the use and development of the inshore marine area is of vital importance to the health of those communities. Participation in those processes is therefore a wider requirement of their empowerment. The development of Scottish Marine Regions (and their RMPPs) is understandably a work in progress – such a major administrative change cannot be effected overnight. The continuing lack of clarity around regional marine planning therefore remains a significant blind-spot in the community empowerment agenda. The Clyde and Shetland Scottish Marine Regions will likely develop as 'pilot areas' for the roll-out of regional marine planning. This is an approach we support, as both regions will identify a wide spectrum of different challenges owing to the fact that Shetland comprises just one local authority, whereas the Clyde encompasses seven local authority areas.

Section 12 of the Marine (Scotland) Act provides that Scottish Ministers may develop regional marine plans and delegate functions in relation to those RMPs to a 'delegate' (or Regional Marine Planning Partnership). A commissioned report for the Scottish Coastal Forum <http://www.scotland.gov.uk/Resource/Doc/295194/0122653.pdf> suggested that the delegate be supported by a technical group; and consultative/advisory groups. The consultative and advisory groups would appear likely to be the only mechanism for community involvement in decision-making and there is no obvious recommendation that would ensure communities have a transparent procedure to proactively request participation in the work of the RMPP. "The Scottish Ministers' direction should require the

establishment of general, topic or geographically based advisory or consultative groups to assist in preparation of the Regional Marine Plan. ***The number, remit and administrative arrangements of such groups should be decided by the delegate.***"

LINK MTF members therefore suggest that procedures for participation requests in outcome improvement processes outlined in sections 17-24 the CE Bill could be considered as a mechanism for giving communities a clear right to participate in regional marine planning. This would indeed contribute to the wider National Performance Framework. One of the 50 key indicators of the Scotland Performs framework (designed to track progress towards achieving Scotland's National Outcomes) is "Improve the state of Scotland's Marine Environment."ⁱⁱ

2. What will be the benefits and disadvantages for public sector organisations as a consequence of the provisions in the Bill

No comment

3. Do you consider communities across Scotland have the capabilities to take advantage of the provisions of the Bill? If not what requires to be done to the Bill, or to assist communities, to ensure this happens?

No comment

4. Are you content with the specific provisions in the Bill, if not what changes would you like to see, to which part of the Bill and why?

Section 16 & Schedule 2 set out the definition and list of "public service authorities" respectively. Regional Marine Planning Partnerships (because they do not yet exist) are not listed in Schedule 2. LINK members note that this list can be modified by Scottish Ministers in the future, but suggest that it would be a strategic time to consider how regional and national marine planning processes can be integrated with community planning processes more widely and whether this would have any implications for the draft Bill.

5. What are your views on the assessment of equal rights, impacts on island communities and sustainable development as set out in the Policy memorandum?

No comment

This response was compiled on behalf of LINK Marine Taskforce and is supported by:

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ⁱ <http://www.scotland.gov.uk/Topics/marine/seamanagement/regional/Scottish-Coastal-Forum>

ⁱⁱ <http://www.scotland.gov.uk/About/Performance/scotPerforms/indicator/marine>