



# Island Communities Impact Assessment

Annual Report 2022-23

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## **1. Introduction**

Orkney Islands Council has a statutory duty, in accordance with Section 7 of the Islands (Scotland) Act 2018, to have regard to island communities in carrying out its functions. As a “relevant authority” under the Act, the Council must publish regular reports on what it has done, during the reporting period concerned, to fulfil this duty. This report describes action which the Council has taken to fulfil its Section 7 duty during the financial year 2022-23.

## **2. National legislation and guidance**

The relevant parts of the Islands (Scotland) Act 2018 are explained below in terms of how they apply to the Council. Section 7 of the Act defines the statutory duty imposed on the relevant authorities listed in the Act, which include the six Scottish councils with islands. Sections 8 and 10 of the Act explain what action the Council needs to take to fulfil its Section 7 duty, and Section 12 explains how it should be reported.

### **Section 7 - Duty to have regard to island communities**

The Council must have regard to island communities in carrying out its functions.

### **Section 8 - Island communities impact assessment**

The Council must prepare an island communities impact assessment (an ICIA) in relation to a policy, strategy, or service which, in its opinion, 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 Orkney.

An ICIA must describe the likely significantly different effect of the policy, strategy or service, and assess the extent to which the Council considers that it can be developed or delivered in such a manner as to improve, or mitigate, for island communities, the outcomes resulting from it.

If the Council does not prepare an ICIA in relation to a policy, strategy, or service which has an effect on an island community, it must publish an explanation of its reasons for not doing so.

### **Section 10 - Compliance with section 7 duty**

The Council must make arrangements to review any policy, strategy or service which it develops or delivers in carrying out its functions, not just new ones. It should do this either by means of an ICIA (for example, if we think a policy is likely to have a differential effect on an island community) or by taking such other steps as it considers appropriate.

## **Section 12 - Reporting regarding section 7 duty**

The Council must publish information about the steps it has taken to comply with the Section 7 duty during each reporting period. A “reporting period” can be any length of time up to a maximum of one year. The Council may publish the information in whatever form it considers appropriate.

This report is our Section 12 report for the financial year 2022-23.

### **National guidance on ICIA**

Scottish Government has published a [guidance toolkit](#) to help relevant authorities carry out their Section 7 duty. This includes a template taking authorities through the stages of conducting an ICIA.

**Step One** – Develop a clear understanding of the objectives of your proposed policy, strategy or service.

**Step Two** – Gather relevant data and identify your stakeholders.

**Step Three** – Consultation with island community stakeholders to learn about any differential impacts of the proposed policy, strategy or service.

**Step Four** – Assessment – on the basis of your findings, is your policy, strategy or service likely to have an effect on an island community which is significantly different from its effect on other communities (including other island communities)?

**Step Five** – If yes, write up your ICIA describing your findings, any differential impacts and planned mitigation measures. If no, proceed to step six.

**Step Six** – Make adjustments to your policy, strategy or service to accommodate the mitigation measures or any other changes arising from the ICIA process.

**Step Seven** – Publish your ICIA, or your explanation of why an ICIA is not needed.

The guidance stresses the importance of consultation and robust community engagement so that islanders are given a platform to voice their opinions, concerns and suggestions.

### 3. Local policy and practice

The Council's Head of Legal and Governance issued guidance to the Extended Corporate Leadership Team on 6 April 2022, comprising questions and answers on ICIA and appending the Council's standard template for ICIA, which follows the six step process set out in the national guidance. The Extended Management Team comprises the Chief Executive, Corporate Directors and Heads of Service. The Q&A and template are attached to this report at Appendix 1.

Section 10 of the Act requires the Council to conduct ICIA on any Council policy, strategy or service which might impact differently on one or more island communities. It would not be feasible to conduct ICIA on all of the Council's policies, strategies and services at once so ICIA is done during the development of new policies, strategies and services, or whenever one is under review.

The Council has a standard template for ICIA. Officers are advised to complete Steps 1-4 at the beginning of the development of a policy, strategy or service, and before any dedicated consultation has taken place. This is because the first steps reveal any gaps in the knowledge and evidence which underpins the policy, strategy or service, and a consultation or engagement exercise can then be designed to fill those gaps.

Orkney Islands Council has integrated ICIA into its regular committee reporting process, ensuring that it cannot be overlooked. Committee reports are planned and tracked in advance in a master planning schedule. The schedule records whether an ICIA is needed to accompany the report, which will likely be the case if it concerns a new or revised policy, strategy or service. Guidance issued to report writers specifies:

If, after completing Steps 1 to 4 of the Island Communities Impact Assessment, the report writer assesses that the policy, strategy or service being developed, reviewed or delivered in terms of the report is unlikely to have an effect on an island community which is significantly different from its effect on other communities (including other island communities) in Orkney, a full Island Communities Impact Assessment is not required (ie Steps 5 to 7 do not require to be completed).

The committee reporting template records the ICIA process in a standard section as follows.

#### **6. Island Communities Impact**

A full Island Communities Impact Assessment has been undertaken and is attached as Appendix x to this report.

**OR**

As the policy, strategy or service being developed, reviewed or delivered in terms of this report has been assessed as being unlikely to have an effect on an island community which is significantly different from its effect on other communities (including other island communities) in Orkney, a full Island Communities Impact Assessment has not been undertaken.

## 4. ICIA activity during 2022-23

The table below lists all ICIA activity reported to Council committees during 2022-23. Reports on ICIA work, and draft ICIA's where required, are mostly published as appendices to committee reports.

ICIA preparatory work does not always lead to a full ICIA. For example, the work carried out on stages 1-4 of the ICIA process for the draft Regional Marine Plan was very extensive, but the Service concluded that a full ICIA was not required. In these cases, the preparatory work may be reported to committee, but step 5 of the ICIA template is not completed.

Where a report is marked "Not for publication", this will be by virtue of the relevant clauses in Part I of Schedule 7A of the Local Government (Scotland) Act 1973, as indicated on the meeting agenda. For example, it might contain commercially sensitive information, or personal details relating to an individual.

<b>Policy, strategy or service</b>	<b>Relevant committee and link to ICIA or to preliminary ICIA work</b>
Orkney Child Poverty Strategy 2022-26	Policy & Resources Committee, 21 June 2022 <a href="#">orkney-child-poverty-strategy-2022-2026.pdf</a>
Orkney's Community Wind Farm Project – Location-Specific Community Benefit Scheme	Policy & Resources Committee, 21 June 2022 <a href="#">Item 18 Orkneys Community Wind Farm Project - Community Benefit Scheme.pdf</a>
Short Term Lets Fees	Licensing Committee, 1 Sep 2022 <a href="#">Item 6 Short Term Lets Fees.pdf (orkney.gov.uk)</a>
Orkney Islands Local Marine Asset Management and Local Governance Pilot Scheme	Policy & Resources Committee, 20 Sep 2022. Not for publication.
Regional Marine Plan	Development & Infrastructure Ctte, 8 Nov 2022 <a href="#">Item 12 Orkney Islands Regional Marine Plan Consultation Draft.pdf</a>
Local Transport Strategy	Development & Infrastructure Ctte, 7 Feb 2023 <a href="#">Item 8 Local Transport Strategy.pdf (orkney.gov.uk)</a>
The Council Plan 2023-2028	Policy & Resources Committee, 21 Feb 2023 <a href="#">Item 07 Council Plan.pdf (orkney.gov.uk)</a>
Orkney Community Plan 2023-30	Policy & Resources Committee, 21 Feb 2023 <a href="#">orkney-community-plan-2023-30-icia.pdf</a>

## 5. External challenge

In addition to carrying out its own duties under the Act, the Council monitors ICIA activity by Scottish Ministers with regard to forthcoming legislation, or by other public sector agencies planning new policies, strategies or services. If ICIA has not been conducted where we would consider it necessary, or we feel that Orkney's island communities have not been given sufficient consideration, the Council is empowered under the Act to challenge Scottish Ministers, or another relevant authority, to revisit their plans and complete ICIA to the standard required by the Act.

Where the policy, strategy or service concerned is of sufficient significance to affect the delivery of the Orkney Community Plan, The Orkney Partnership may also choose to raise issues regarding ICIA in response to consultation.

In April 2022, the Council challenged the Scottish Government's consultation on the Second Strategic Transport Projects Review (STPR2) on the grounds that it had not been subjected to ICIA at any early enough stage in its development. Phase 1 of the review had included a long list of strategic projects, including several of critical importance to Orkney. Prior to consultation, the Scottish Government sifted the long list and eliminated from it all services provided by Scottish local authorities, including the replacement of Orkney's internal ferry fleet, upgrades to isles air services and runways, and the maintenance of Orkney's roads infrastructure including the Churchill barriers. STPR2 thereby excluded from scope all of Orkney's most critical transport projects from national consideration for the next 20 years.

The Orkney Partnership also submitted a response to the consultation, noting that:

If future transport policy is to support solely the projects contained in the STPR2 report, then Orkney will be doubly disadvantaged as its most important strategic projects will be excluded from any associated funding.

The Partnership concluded:

Had the Island Communities Impact Assessment been started early enough in the development process, it would have included the sifting process as part of the assessment, and highlighted the differential impact on some island areas – including Orkney – of the removal from scope of key strategic projects. As it is, the delayed start to the ICIA process and the critical omissions made in its implementation mean that we cannot accept the ICIA as a competent assessment of the impact on island residents of the draft STPR2 report.

Following this challenge, Scottish Government announced in December 2022 the setting up of a Ferries Taskforce, chaired by then Deputy First Minister John Swinney, to develop funding proposals for a new ferry fleet for Orkney. The Taskforce met for the first time in February 2023.

# Islands (Scotland) Act 2018 - Duties

## Questions and Answers



### 1. What are the Council's duties under the Islands (Scotland) Act 2018?

The Act places a duty on the Council to have regard to island communities in carrying out its functions, and the Council must publish information about the steps that it has taken to comply with this duty. The Council must also prepare Island Communities Impact Assessments in certain circumstances. In addition, the Council has a duty to respond to requests for review of Island Communities Impact Assessments.

### 2. What is an Island Communities Impact Assessment?

An Islands Communities Impact Assessment (ICIA) is designed to improve outcomes for island communities in meaningful ways and is a legal requirement. It should be an early part of the development of any new strategy, policy or service.

The ICIA helps you look at the needs of different island communities and encourages consideration about how the proposal will affect them. Some of these impacts may be positive and others may be negative. You can think about ways to reduce the negative impacts so that everyone will be able to benefit from the proposal.

### 3. When do I have to carry out an Island Communities Impact Assessment?

You need to carry out an ICIA whenever you are developing, delivering or redeveloping a policy, strategy or service which, in your view, is likely to have an effect on an island community which is significantly different from its effect on other communities (including other island communities) within Orkney.

You should also carry out an ICIA whenever you review an existing strategy, policy or service which, in your view, is likely to have such an effect as described above.

### 4. How do I carry out an Island Communities Impact Assessment?

The ICIA must describe the likely significantly different effect of the policy, strategy or service and assess the extent to which you consider that the policy, strategy or service can be developed or delivered in such a manner as to improve or mitigate, for island communities, the outcomes resulting from it.

The Scottish Government has developed a toolkit and guidance which includes a seven-step guide to assist you in the process of carrying out an ICIA. You can view this at:

[Island Communities Impact Assessments: guidance and toolkit - gov.scot \(www.gov.scot\)](http://www.gov.scot/resources/consultation-policies/islands/ica-guidance-and-toolkit/)

An ICIA template, which is based on the model contained in the above toolkit, has been developed and should be used whenever you carry out an ICIA. The template is attached as an Appendix to this document.

After the first four steps in the process set out in the toolkit, you must determine whether, in your opinion, the 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).

If your answer is **NO** to the above question, a full ICIA will not be required, and you can proceed to Step SIX in the process.

If the answer is **YES**, a full ICIA must be prepared, and you should proceed to Step FIVE.

5. **Who signs off an ICIA?**

All completed ICIAs must be approved and signed off by a Head of Service, unless completed by a Head of Service, in which case, they should be approved and signed off by a Corporate Director.

6. **Does a completed ICIA need to be published?**

Yes. Completed ICIAs should be passed to the Council's Digital Communications Coordinator who will arrange for their publication on the Council's website, as this is a legal requirement. In addition, completed ICIAs should be shared with all stakeholders who had been consulted during preparation of the ICIA.

7. **Do I need to publish an ICIA even if I have assessed after Step FOUR that a full ICIA is not required (see question 4 above)?**

Yes. Even where it is assessed that a given policy, strategy or service is not likely to have an effect on an island community which is significantly different from its effect on other communities (including other island communities), the ICIA template must be completed and published.

8. **Do I need to complete an ICIA if I am reviewing an existing policy, strategy or service (instead of developing or delivering a new one)?**

The Council has a statutory duty to have regard to island communities in carrying out its functions. The legislation provides that the Council demonstrates compliance with this duty by making appropriate arrangements **to review any policy, strategy or service** (as the case may be) which it develops or delivers in carrying out its functions, and

either -

in the case where an ICIA is required (see question 3), by preparing that ICIA, or,

in any other case, by making such an assessment or taking such other steps as the Council considers appropriate. Such steps might, for example, include consultation with groups representing island communities during the delivery of a particular service or undertaking of an ICIA even though the mandatory criteria have not been met.

Policies, strategies or services should be reviewed by the relevant Corporate Director at regular intervals in line with agreed review periods or sooner at the discretion of the relevant Corporate Director.



All ICIA's, including those completed as part of a review of an existing policy, strategy or service, must be submitted to the Council's Digital Communications Coordinator for publication on the Council's website.

**9. Can an ICIA that I have carried out be reviewed?**

In certain circumstances, a review of a decision relating to an ICIA may be requested by an "applicant". An applicant is defined in the legislation to include an individual who is a resident of an island community at the time of the decision, or a community-controlled body. In such circumstances, the applicant is obliged to demonstrate that they have been directly affected (or are likely to be directly affected) by the relevant policy, strategy or service.

Applications for review must be made by the applicant, normally within three months of the relevant decision, using the form prescribed in the legislation. The legislation and the specified form are available at:

[Empowering our island communities - Community empowerment - gov.scot \(www.gov.scot\)](http://www.gov.scot/Topics/Communityempowerment)

**10. Who will consider and determine the review?**

The Council can determine an application for review even though the Council had made the decision which is the subject of the review.

The application for review should be considered by a Corporate Director or Head of Service who was not involved in the original decision forming the subject of the application for review.

There is no legal right of appeal against the determination of an application for review.

**11. Are there any reporting duties that I need to be aware of?**

The Council requires to publish information annually about the steps that it has taken to comply with its duty to have regard to island communities in carrying out its functions.

The Council has decided that this information should be published in the Council's Annual Performance Report.

This information should include a description of how the Council has had regard to island communities in carrying out its functions, a list of policies, strategies or services for which the Council has completed an ICIA and any other steps that the Council has taken for such policies, strategies or services for which an ICIA was not required.

**12. Are any other public authorities subject to duties under the Islands (Scotland) Act 2018?**

Yes, a large number of public authorities, including the Scottish Government, have similar duties to the Council under the legislation.

For example, the Scottish Government, must prepare and publish an ICIA in relation to any legislation, policy, strategy or service which, in its opinion, 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 Scotland.

**13. Does the legislation provide for retrospective ICIA's?**

The Council may make a request to the Scottish Government to prepare and publish a retrospective ICIA in relation to existing legislation or national strategies which have an effect on an island community which is significantly different from their effect on other communities (including other island communities) in Scotland.

There is no provision in the legislation that allows anyone to request the Council to undertake retrospective ICIA's. However, the Council may independently determine that an ICIA is required during the course of its review of an existing policy, strategy or service.

**Appendix 1**

Template Island Communities Impact Assessment Form.

**Gavin Mitchell**

**Head of Legal and Governance**

**6 April 2022.**

## Appendix 2 – ICIA template

### Island Communities Impact Assessment

[Insert Policy, Strategy or Service Title]

Preliminary Considerations	Response
Please provide a brief description or summary of the policy, strategy or service under review for the purposes of this assessment.	
<b>Step 1 – Develop a clear understanding of your objectives</b>	<b>Response</b>
What are the objectives of the policy, strategy or service?	
Do you need to consult?	
How are islands identified for the purpose of the policy, strategy or service?	
What are the intended impacts/outcomes and how do these potentially differ in the islands?	
Is the policy, strategy or service new?	
<b>Step 2 – Gather your data and identify your stakeholders</b>	<b>Response</b>
What data is available about the current situation in the islands?	
Do you need to consult?	
How does any existing data differ between islands?	
Are there any existing design features or mitigations in place?	
<b>Step 3 – Consultation</b>	<b>Response</b>
Who do you need to consult with?	
How will you carry out your consultation and in what timescales?	
What questions will you ask when considering how to address island realities?	

What information has already been gathered through consultations and what concerns have been raised previously by island communities?	
Is your consultation robust and meaningful and sufficient to comply with the Section 7 duty?	
Step 4 – Assessment	Response
Does your assessment identify any unique impacts on island communities?	
Does your assessment identify any potential barriers or wider impacts?	
How will you address these?	
<p><b>You must now determine whether in your opinion your 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).</b></p> <p>If your answer is <b>No</b> to the above question, a full ICIA will NOT be required and <b>you can process to Step 6.</b></p> <p>If the answer is <b>Yes</b>, an ICIA must be prepared and <b>you should proceed to Step 5.</b></p> <p>To form your opinion, the following questions should be considered:</p> <ul style="list-style-type: none"> <li>• Does the evidence show different circumstances or different expectations or needs, or different experiences or outcomes (such as different levels of satisfaction, or different rates of participation)?</li> <li>• Are these different effects likely?</li> <li>• Are these effects significantly different?</li> <li>• Could the effect amount to a disadvantage for an island community compared to the Scottish mainland or between island groups?</li> </ul>	

Step 5 – Preparing your ICIA	Response
In Step 5, you should describe the likely significantly different effect of the policy, strategy or service:	
Assess the extent to which you consider that the policy, strategy or service can be developed or delivered in such a manner as to improve or mitigate, for island communities, the outcomes resulting from it.	
Consider alternative delivery mechanisms and whether further consultation is required.	
Describe how these alternative delivery mechanisms will improve or mitigate outcomes for island communities.	
Identify resources required to improve or mitigate outcomes for island communities.	
Stage 6 – Making adjustments to your work	Response
Should delivery mechanisms/mitigations vary in different communities?	
Do you need to consult with island communities in respect of mechanisms or mitigations?	
Have island circumstances been factored into the evaluation process?	
Have any island-specific indicators/targets been identified that require monitoring?	
How will outcomes be measured on the islands?	
How has the policy, strategy or service affected island communities?	
How will lessons learned in this ICIA inform future policy making and service delivery?	

Step 7 – Publishing your ICIA	Response
Have you presented your ICIA in an Easy Read format?	
Does it need to be presented in Gaelic or any other language?	
Where will you publish your ICIA and will relevant stakeholders be able to easily access it?	
Who will signoff your final ICIA and why?	

ICIA completed by:	
Position:	
Signature:	
Date complete:	

ICIA approved by:	
Position:	
Signature:	
Date complete:	