

# Scottish Government consultation – Policy proposal for the review of Island Communities Impact Assessments Decisions (Scotland) Regulations under Section 9 of the Islands (Scotland) Act 2018

## Response from Audit Scotland and the Accounts Commission, 22 July 2020

1. Audit Scotland welcomes the opportunity to respond to the consultation paper on behalf of the Accounts Commission and Auditor General for Scotland.
2. Audit Scotland and the Accounts Commission have a dual interest in the Islands (Scotland) Act 2018. They are both named as relevant authorities and therefore have duties under the Act. Audit Scotland audits most of the other public authorities, health boards, integration joint boards, councils, regional colleges, and regional transport partnerships named as relevant authorities. Audit Scotland publishes annual audit reports of each of these relevant authorities for the Commission and the Auditor General. Best Value Assurance Reports (BVARs) are published on each council over a five-year period, and performance audits are carried out by Audit Scotland for the Commission and Auditor General covering a range of topics and public bodies. We also carry out annual performance and financial reviews of local government, the NHS, and colleges in Scotland.
3. Audit Scotland has set up an Islands forum consisting of staff from across the organisation involved in performance audits, BVARs, and financial audits of public bodies. The Islands Forum has been set up to facilitate cross-organisation working, discussion, understanding and development of intelligence on the Islands (Scotland) Act 2018 and other relevant islands audit issues. This will include: assisting Audit Scotland and the Commission meet the requirements of the Act; raising awareness and providing guidance to appointed auditors; enhance public awareness of the specific challenges faced by islands and make recommendations for improvement; and engaging with the Scottish Government Islands Team and other external stakeholders.
4. Audit Scotland is currently reviewing its performance audit work programme in light of the Covid-19 pandemic in order to take account of its impact on its own priorities and resources and on the impact on its audited bodies.
5. Through the Islands Forum Audit Scotland has given some consideration to how it builds ICIA's into its audit processes and we await further guidance from the Scottish Government on this process. Audit Scotland welcomes the opportunity to comment on the proposed ICIA review process and finds it generally agreeable. There is a key point of principle that it is necessary to raise in relation to part of the process. The policy proposal states that:

*“The policy intention is to allow a review to Scottish Ministers if the applicant considers that a relevant authority is unreasonably deciding not to carry out an ICIA, or if a relevant*

*authority is unreasonably standing by its decision that an ICIA was carried out satisfactorily.”*

Audit Scotland remains respectful and supportive of the Islands Act and its guiding principles and, through its Islands Forum, will continue to work to meet the requirements of the Act. But Audit Scotland must also reaffirm its independence and that of the public audit process. Audit Scotland is an independent public body. This is integral to the principles of independent public audit and to the role that public audit plays in supporting the Scottish Parliament and providing independent evidence on the performance of public bodies. It is therefore not appropriate for Audit Scotland's work to be referred to Scottish Ministers. There is a well-established complaints procedure which ensures that individuals can raise concerns about audit processes without compromising our independence. Any review process for this Act must be consistent with those principles and should be incorporated into those existing processes to guarantee independence from Scottish Ministers.

6. Taking a wider approach and considering the position of our audited bodies, Audit Scotland urges that a degree of flexibility is built into the process, particularly around timeframes. It is important to take into account the diverse range of relevant authorities listed under the Act and the varying nature of their services and policies. The process should also be proportionate to relevant authorities' capacity and resources, particularly around review publication and the associated costs. A centralised process for supporting this part of the review may be helpful to smaller authorities. See below for Audit Scotland's response to the specific questions set out in the consultation paper:

**Q1. The definition in the Act of island communities refers to individuals (bodies are not included). How wide should the review process be and, in particular, who should be entitled to call for a review?**

By allowing individuals to call for a review, essentially no one is precluded from the process. There may be instances where organisations or groups may wish to signify that they are making an application as a collective to add weight to their argument. But if the regulations set out the grounds for a review and that the review will be based on the evidence gathered, it should make no difference to the outcome whether the application comes from an individual or an organisation/group.

**Q2. Are the grounds for review of a relevant authority's decision sufficient?**

Audit Scotland considers the grounds to be sufficient in that they cover the range of possible outcomes when relevant authorities or Scottish Ministers consider an ICIA. It may be useful to provide more information on when a review cannot be requested, along with guidance for relevant authorities on when and how they can reject an application. That guidance should remain flexible to take account of the diverse nature of the relevant authorities and the parameters within which they work. In the case of Audit Scotland and the Accounts Commission, this guidance must allow for the principle of an independent public audit process to be maintained.

**Q3. Is 6 months sufficient time for a relevant authority to make a decision from the date of validation of the application?**

For Audit Scotland, 6 months is likely to be sufficient time. However, given the broad range of relevant authorities listed in the Act it might be the case that some relevant authorities would require more time depending on the nature of the policy or service in question and the resources available to the authority.

**Q4. What would be a suitable timeframe for making an application, particularly where there is no published decision of an ICIA?**

The regulations should reflect the broad range of relevant authorities and their policies and services. It can be a while before the impact of some policies can be seen and the desire for a review may not become apparent to potential applicants until then. That said, it may be too late by that stage to carry out a review or for it to have any impact. So, it may be reasonable to allow for applicants to request a review up until the point at which it could affect the overall outcome but not beyond that. That will obviously vary across relevant authorities, policies and services, which makes it difficult to implement a uniform timeframe. It may be better to provide guidance to relevant authorities on how they decide on the timeframe based on their own circumstances.