



Respondent Information Form and Consultation questions

Please note: a copy of this form is available on the KLTR's website at www.kltr.gov.uk and responses to the consultation **must** be submitted using this form to be considered no later than **Friday 16 December 2022**.

Are you responding as an individual or an organisation?

- Individual
 Organisation

Full name or organisation's name

Crown Estate Scotland

Phone number

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The KLTR would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name
 Publish response only (without name)
 Do not publish response

Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other teams within the department who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for KLTR to contact you again in relation to this consultation exercise?

- Yes
 No



Questions

Q1. Do you agree that Highlands and Islands Enterprise Community Land Unit is the appropriate body to provide advice to the KLTR on potentially suitable community groups? If not, who would you suggest and why?

We agree that HIE would be an appropriate body to take on this role assuming that they have sufficient knowledge of community groups outside of their geographic area. This should be clearly communicated as otherwise stakeholders may think that the scheme is of relevance only to the Highlands and Islands. We expect that HIE would work closely with other relevant bodies such as South of Scotland Enterprise elsewhere in Scotland.

Q2. Do you agree that a valuation and other reports undertaken by the KLTR are sufficiently independent to avoid duplication of cost for all involved in the OPTS? If not, why not?

We would suggest that the concept of 'privity of contract' means that for an organisation such as Crown Estate Scotland to rely on professional advice (valuations, surveys etc) commissioned by KLTR, Crown Estate Scotland would need to be named in the tender/commission as a body that would rely on the information and advice. We would encourage KLTR to put in place measures that would allow Crown Estate Scotland and other public bodies to avoid duplication of costs for professional advice – perhaps a letter of reliance or an arrangement for warranting outputs or an arrangement for naming multiple public bodies as the Client (joint and several).

Q3. Do you think three months for the local authority to decide whether or not it wishes to take ownership of an ownerless property is reasonable? If not, how long would you suggest and why?

We believe Crown Estate Scotland, because of the unique skills, resources and collaborative arrangements it has in place for working across central government and local government, should be permitted to express an interest in owning ownerless property across all four months (spanning both the central government trawl process as well as the local government trawl process). We believe that this arrangement will help achieve better outcomes at both a community and national level in Scotland and make optimal use of the mandate and vires under which Crown Estate Scotland operates.

Q4. Do you agree that the above process is reasonable and workable? If not, how would you improve the process?

We believe that Crown Estate Scotland could potentially support the strategic desire for KLTR to transfer a property to a community body under the OPTS process if a situation arises whereby the community group has a desire but is not ready to take receipt of an asset. Crown Estate Scotland could potentially act as an intermediary taking receipt of the asset for a period of time while the community body develops funding arrangements etc. We would be happy to discuss with the KLTR how such an approach could work.



Q5. Do you agree that the property transfer value for OPTS should be at “nominal value” as described above? If not, what value do you think should apply and why?

It should be recognised that non-economic value and wider policy objectives can be derived/supported by transferring assets at less than market value to other public bodies, and that traditional economic appraisals and decision-making processes may struggle to accommodate such thinking. The transfer of assets at “nominal value” between public bodies can be consistent with unlocking and delivering wider social and environmental value. On this basis we agree with the above statement.

Q6. Do you think the KLTR should place conditions on the transfer of OPTS property to ensure the intended benefits to local communities are delivered?

We believe that in principle such an approach could work but the need and effectiveness will likely be very case specific.

Q7. Do you think a recognised public authority should retain a property to allow an appropriately constituted community body to raise the necessary funds, etc.? If so, should a timescale be set for raising the funds?

We agree that, in theory, a public authority should have the ability to retain a property to allow a community body to raise the capital funds required to acquire the asset. A timescale should be set for raising the funds and we would suggest that timescales vary depending on the value of the asset, i.e., a maximum of 3 years for higher value assets.

There are a number of areas which would need further consideration if such an approach was to be adopted. For example, if the asset is transferred to a public body at nominal value, what would the expected acquisition price for the community body be? Also would it be acceptable for the public body to make a return on the sale?

If an asset is deemed particularly high risk or to have low market value, a public body may be unwilling to enter into this initiative as it could be difficult to divest of the asset in the event that the community are unable to raise funds or decide against the acquisition for other reasons.

Q8. Do you think the OPTS should apply to all properties as described or should it be restricted to certain types of properties? If the latter, which types?

We think that the OPTS should apply to all properties as it will be up to each public body to determine whether it wishes to acquire the asset in question. It may be that, in some cases, demolition and development presents an opportunity for a public body to meet its goals.



Q9. Do you agree that the above proposals provide an opportunity for ensuring community interests are considered as early as possible? If not, why not?

The above proposals provide an opportunity for ensuring community interests are taken into account but discussing with a local authority or other public body does not necessarily mean that community interests are sufficiently taken into account. Guidance indicating how local authorities are expected to engage with the local community should be provided to ensure that local collaborative working is achieved.

Q10. Do you agree that the above criteria should apply to the OPTS? If not, what criteria do you think should or should not apply and why?

We welcome the flexibility that the criteria provides and agree that this is appropriate given the different priorities and aspirations of different public authorities.

Q11. Do you agree that the OPTS should ensure the wider public interest is considered before private interest? If not, why not?

No comment

Q12. Do you think the public interest is defined reasonably for the purposes of the OPTS? If not, how should it be defined?

We think this is reasonably defined. If the definition of "public interest" is too tight, then this could limit what can be done

Q13: Do you agree that the KLTR should take a high-level approach to sustainable development issues, as above, in order to allow further scrutiny and transparency at local level? If not, why not?

We agree that a high-level approach is appropriate to allow the receiving authority to have sufficient flexibility to determine how best to maximise sustainable development opportunities associated with that particular property. We also welcome the acknowledgment that it may not always be possible to deliver economic, social and environmental benefits in all instances.

Q14: Do you consider there are specific circumstances in which the KLTR should never deal with dissolved company property when a company still remains within its 6-year restoration window?

No comment

Q15. In addition to the above, do think any other financial controls or safeguards are required? If so, please describe how and why.

No comment



Q16. Do you think the KLTR's approach to liability and risk is acceptable? If not, how could this be improved?

No comment

Q17. Are there any other ways you think the OPTS may be monitored? If so, in what way?

No comment

Q18. Do you agree that penalties for non-delivery of aspirations are unnecessary, as above, and that local accountability should be sufficient to ensure delivery of agreed aspirations?

We agree that penalties are unnecessary so long as the governance processes of the receiving authority are applied. It may be appropriate to emphasise that aspect of the process rather than "local accountability" or "local democracy" which seem unclear as concepts in this context

Q19. Which of the further measures above do you think should be applied to the OPTS?

No comment

Q20. Do you think properties within the 6-year restoration window should be excluded from OPTS or do you agree that a criteria-based policy approach, as described above, is the best way of addressing this?

No comment

Q21. Are there any other measures you think should be taken to safeguard those involved in the OPTS process?

No comment

Q22. Are you aware of any examples of how the proposals in this consultation might impact, positively or negatively, on island communities in a way that is different from the impact on mainland areas?

No comment

Q23. Are you aware of any examples of particular current or future impacts, positive or negative, on young people, (children, pupils, and young adults up to the age of 26) of any aspect of the proposals in this consultation?

No comment



Q24. Are you aware of any examples of how the proposals in this consultation may impact, either positively or negatively, on those with protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation)?

No comment

Q25. Are you aware of any examples of potential impacts, either positive or negative, that you consider any of the proposals in this consultation may have on the environment?

No comment

Q26. Are you aware of any examples of how the proposals in this consultation might impact, positively or negatively, on groups or areas at socioeconomic disadvantage (such as income, low wealth or area deprivation)?

No comment

Q27. Are you aware of any potentially unacceptable costs and burdens that you think may arise as a result of the proposals within this consultation?

No comment

Q28. Are you aware of any impacts, positive or negative, of the proposals in this consultation on data protection or privacy?

No comment

Please email to the KLTR Policy Team's mailbox at Policy@KLTR.gov.uk. You can save and return your responses while the consultation is still open but please ensure that consultation responses are submitted before the closing date.

If you are unable to respond by e-mail, please print and complete the Respondent Information Form and send it by post to:

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