

The Town and Country Planning (Development Planning) (Scotland) Regulations 2023 & Guidance

Impact Assessments

March 2023



Contents

	Page
<u>Introduction</u>	1
<u>What are the Impact Assessments?</u>	2
<u>Business and Regulatory Impact Assessment (BRIA)</u>	4
<u>Child Rights and Wellbeing Impact Assessment (CRWIA)</u>	36
<u>Equalities Impact Assessment, covering human rights (EQIA)</u>	50
<u>Fairer Scotland Duty Assessment (FSDA)</u>	57
<u>Island Communities Impact Assessment (ICIA)</u>	78
<u>Strategic Environmental Assessment (SEA)</u>	92

Introduction

These Impact Assessments relate to the Town and Country Planning (Development Planning) (Scotland) Regulations and associated guidance to stakeholders on implementing the future Local Development Plan (LDP) system.

In preparing the regulations and guidance, consideration has been given to their impacts. The Impact Assessments below have been prepared.

- Business and Regulatory Impact Assessment (BRIA)
- Child Rights and Wellbeing Impact Assessment (CRWIA)
- Equalities Impact Assessment (covering human rights) (EQIA)
- Fairer Scotland Duty Assessment (FSDA)
- Island Communities Impact Assessment (ICIA)
- Strategic Environmental Assessment (SEA).

A [public consultation on the draft regulations and guidance](#) took place between December 2021 – March 2022. [Interim Impact Assessments](#) accompanied the consultation.

We asked 32 consultation questions, several of which related to the Interim Assessments; views were sought on their content, and stakeholders were invited to direct the Scottish Government to any other information that would assist in finalising the assessments. In the case of the SEA and Fairer Scotland Duty screening documents respondents were asked whether they agreed with the Scottish Government's approach to screening.

In total, there were 87 responses to our consultation questions. These included responses from 78 organisations and 9 from the category of community and individuals. Respondents included planning authorities, key agencies and the public sector, development, property and land management bodies, the energy sector, the third sector, professional and representative bodies as well as communities and individuals. Ironside Farrar were commissioned to undertake an independent analysis of the comments received. The [report](#) provides the detail of the comments and sets out some main conclusions.

The consultation responses, including comments on the Interim Impact Assessments, have been considered in the finalisation of the regulations, guidance and impact assessments. Further detail is provided in the various impact assessments provided in this document.

Owing to the differing reporting requirements, we are presenting the assessments separately.

What are the Impact Assessments?

What is a Business and Regulatory Impact Assessment?

A Business and Regulatory Impact Assessment (BRIA) looks at the likely costs, benefits and risks of any proposed primary or secondary legislation. It also covers voluntary regulation, codes of practice, guidance, or policy changes that may have an impact on the public, private or third sector.

The BRIA explains:

- the reason why the Scottish Government is proposing to intervene;
- options the Scottish Government is considering, and which one is preferred;
- how and to what extent new policies may impact on Scottish Government, business and on Scotland's competitiveness;
- the estimated costs and benefits of proposed measures.

What is a Child Rights and Wellbeing Impact Assessment?

The Child Rights and Wellbeing Impact Assessment (CRWIA) is used to identify, research, analyse and record the impact of a proposed policy on children's human rights and wellbeing. CRWIA helps the Scottish Government consider whether it is: advancing the rights of children in Scotland; and protecting and promoting the wellbeing of children and young people.

CRWIA is a Ministerial duty under the Children and Young People (Scotland) Act 2014 and in relation to the United Nations Convention on the Rights of the Child (UNCRC).

What is an Equalities Impact Assessment?

The public sector equality duty requires the Scottish Government to assess the impact of applying proposed new legislation. Equality legislation covers the characteristics of: age, disability, gender reassignment, sex including pregnancy and maternity, race, religion and belief, and sexual orientation.

An Equalities Impact Assessment (EQIA) aims to consider how a policy may impact, either positively or negatively, on different sectors of the population in different ways. A policy can cover: activities, functions, strategies, programmes, and services or processes.

The Equality Act 2010 harmonised existing equality legislation and includes a public sector duty ('the Duty') which requires public authorities to pay due regard to the need to:

- Eliminate discrimination, harassment, victimisation or any other prohibited conduct;
- Advance equality of opportunity; and

What are the Impact Assessments?

- Foster good relations between different groups – by tackling prejudice and promoting understanding.

Whilst there is not currently a specific Human Rights Impact Assessment, human rights considerations should be embedded throughout the policy making process. These considerations are set out within the EQIA.

What is the Fairer Scotland Duty Assessment?

The Fairer Scotland Duty (FSD) is set out in legislation as Part 1 of the Equality Act 2010, and came into force in Scotland from April 2018. The aim of the duty is to help the public sector to make better policy decisions and deliver fairer outcomes. The duty focuses on socio-economic inequality issues such as low income, low wealth, and area deprivation. The Fairer Scotland Duty applies to 'decisions of a strategic nature' – these are the key, high-level choices or plans that the public sector makes.

What is an Island Communities Impact Assessment?

An Island Community Impact Assessment (ICIA) tests any new policy, strategy or service which is likely to have an effect on an island community which is significantly different from the effect on other communities. This became a legal duty in December 2020 under the Islands (Scotland) Act 2018.

What is Strategic Environmental Assessment?

In Scotland, public bodies and private companies operating in a public character, such as utility companies, are required to assess, consult on, and monitor the likely impacts their plans, programmes and strategies will have on the environment. This process is known as Strategic Environmental Assessment (SEA).

SEA helps to better protect the environment, aims to ensure that any development is sustainable, and increases opportunities for public participation in decision-making. It ensures that expert views are sought at various points in the preparation process from the public and the consultation authorities, who are:

- NatureScot
- Scottish Environmental Protection Agency
- Historic Environment Scotland.

Business & Regulatory Impact Assessment (BRIA)

<u>Purpose and intended effect</u>	5
<u>Background</u>	5
<u>Objective</u>	6
<u>Rationale for Government intervention</u>	8
<u>Consultation</u>	8
<u>Within Government</u>	8
<u>Public consultation – stakeholder involvement in development phase</u>	8
<u>Public consultation – draft regulations and guidance</u>	10
<u>Meaning of Gypsies and Travellers</u>	10
<u>Self-build registers – engagement on guidance</u>	11
<u>Consultation with business</u>	11
<u>Options</u>	12
<u>Sectors and groups affected</u>	14
<u>Business – all options</u>	14
<u>Planning authorities – all options</u>	14
<u>Communities and the third sector – all options</u>	15
<u>Public bodies – all options</u>	
<u>Benefits</u>	16
<u>Costs</u>	17
<u>Regulatory and EU alignment impacts</u>	20
<u>Scottish Firms Impact Test</u>	20
<u>Competition Assessment</u>	21
<u>Consumer Assessment</u>	21
<u>Test run of business forms</u>	21
<u>Digital Impact Test</u>	21
<u>Legal Aid Impact Test</u>	22
<u>Enforcement, sanctions and monitoring</u>	22
<u>Implementation and Delivery Plan</u>	22
<u>Post-implementation review</u>	
<u>Summary and recommendation</u>	22
<u>Declaration and publication</u>	25
<u>Annex A – Subgroup Work Briefs</u>	26
<u>Annex B – Targeted Questionnaire</u>	29

Final Business and Regulatory Impact Assessment

REGULATIONS AND GUIDANCE ON LOCAL DEVELOPMENT PLANNING

Purpose and intended effect

Background

This Business and Regulatory Impact Assessment considers the likely impacts of proposed secondary legislation and guidance that is intended to support implementation of changes made to the local development planning system by the Planning (Scotland) Act 2019 (the 2019 Act), which amended the Town and Country Planning (Scotland) Act 1997 (the 1997 Act). It covers the regulations on local development plans including provisions to fulfil the requirement of Section 16B of the Act, to specify the meaning of 'Gypsies and Travellers' for the purposes of the discharging of duties associated with the Act. It also covers the forthcoming guidance on implementing legislative requirements and policy expectations.

Regulations

Primary legislation provides the framework for LDPs and includes detail on many of the procedures to be followed in preparing plans. It also delegates powers to prepare secondary legislation on a range of detailed requirements.

The existing local development planning system, in addition to the Act prior to amendment by the 2019 Act, is governed by The Town and Country Planning (Development Planning)(Scotland) Regulations 2008, The Planning etc. (Scotland) Act 2006 (Development Planning)(Saving, Transitional and Consequential Provisions) Order 2008, and The Town and Country Planning (Grounds for declining to follow recommendations)(Scotland) Regulations 2009. The new Regulations will revoke the exiting 2008 development planning regulations, subject to savings and transitional arrangements.

Guidance

At present information on implementing the existing development planning legislation is set out in Circular 6/2013, Development Planning. The approach set out in the Circular was intended to allow authorities to meet the requirements as they saw appropriate rather than provide detailed information on Ministers' expectations. A consequence of this approach was that aspects of the system were not implemented as initially intended. For example, supplementary guidance and Main Issues Reports (parts of the process that have now been removed from the system through the 2019 Act) contributed to a system that was too complex and not sufficiently outcomes driven.

The proposed guidance will replace Circular 6/2013.

Objective

There is strong support for a plan-led planning system in Scotland. Development planning is required by law to manage the development and use of land in the long term public interest. The Scottish Government's programme of planning reform seeks to strengthen LDPs. We want to refocus plans on the outcomes that they deliver for people and places, rather than the preparation process. Plans should be developed in collaboration with a wide range of stakeholders, and based on robust evidence so that they are **deliverable**. Plans should also be **place-based**, with the inclusion of a clear spatial strategy reflected more in a collection of maps, site briefs and masterplans than in written text and policy. Plans should be relevant, accessible and useful to the **people** with an interest in that place. We want plans to be prepared in a different way, look different and be used in different ways to before.

Regulations and guidance both have a part in supporting implementation of this system. Regulations will, alongside the primary legislation, provide the procedural framework for preparation of LDPs. Guidance will provide further detail on Ministers' expectations for this, along with supporting ways of working that result in a more delivery focused system. The guidance will also provide policy advice to stakeholders on how LDPs can support the implementation of National Planning Framework 4 (NPF4).

Regulations

Given the degree of change being implemented through planning reform as a whole, including via procedures set out in primary legislation, the Scottish Government has worked on the basis of keeping regulations to the minimum necessary.

The regulations are structured to reflect the provisions of the primary legislation and incorporate the following:

- new regulations relating to the evidence report and its assessment: These are new parts of the LDP process and it is proposed to mirror the requirements already in place for the Examination of LDPs. This will enable consistency for those implementing the requirements and assist stakeholders' understanding of the processes.
- new regulations providing a meaning of "Gypsies and Travellers" for the purposes of implementing Section 16B of the 1997 Act as amended.
- new regulations relating to the development plan scheme (DPS): These add to existing regulations to require planning authorities to specify which quarter of which year a plan is expected to be adopted and to identify any changes to the timetable from the previous DPS, along with an explanation for that change.
- removing references to aspects of the LDP process that will no longer be part of the system: For example Monitoring Statements, Main Issues Reports and Strategic Development Plans.
- updating references to ensure accuracy: For example to primary legislation and Delivery Programmes (which replace Action Programmes).

Business and Regulatory Impact Assessment (BRIA)

- updating the definition of Key Agencies: This is to reflect changes to the following organisations since 2008 - NatureScot, Historic Environment Scotland and the emergence of South of Scotland Enterprise. The final regulations reference the Crofting Commission, rather than the 'Crofters Commission' included in the draft version.
- consolidation of the requirements of the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 2015, already in place.

Guidance

The Act, with detail provided by the proposed regulations, makes substantial changes to the local development planning system. Particularly notable are the introduction of the new evidence report and gate check stages, in addition to several other procedural modifications.

Primary responsibility for implementation of much of the local development planning system lies with planning authorities, supported by a diverse range of stakeholders including Key Agencies, business, the general public and the Scottish Government. The local development planning guidance will enable the Scottish Government to be clear on Ministers' intentions and expectations for new style plans, and importantly their implementation. Introducing guidance alongside the regulations will provide maximum flexibility and resilience, allowing experience from implementing the new system to inform updates to the guidance as appropriate.

The finalised guidance will cover:

- the overall **aims and expectations** for new style plans. It provides key messages of what they should be like in the future, emphasising they should be delivery-focused, place-based and people-centred.
- the **process** of how to achieve a new style plan. It will cover the legislative requirements, how these are met and responsibilities of different stakeholders. It will provide detail on the expectations for new evidence reports, emphasises 'delivery' throughout the stages of plan preparation and provides guidance on integrating LDP and Strategic Environmental Assessment (SEA) processes. Embedded within the guidance on the NPF4 content of this section would previously have been in Scottish Planning Policy (SPP), however with the change in status of NPF this guidance is now a more appropriate location for this information.

The Act also introduced the requirement for planning authorities to prepare and maintain a list of people who have registered interest with the authority of acquiring land in the authority's area for self-build housing. Guidance will therefore also be provided to support planning authorities in fulfilling this duty.

Rationale for Government intervention

It is a legal requirement for planning authorities to prepare LDPs, which set out how our local places will change into the future, including where development should and shouldn't happen. They form part of the statutory 'development plan', which is the legal basis for all decisions on planning applications. Following changes introduced by the 2019 Act the development plan now comprises the relevant LDP and the NPF.

The 2019 Act amended the 1997 Act, including the provisions for LDPs and the detail of the procedures to be followed in their preparation. The Act gives the Scottish Ministers powers to prepare secondary legislation - regulations - concerning a range of related matters. This regulation is necessary to provide additional detail to the requirements set out in primary legislation, and to ensure the new system is able to operate effectively and in a way that is compatible with the Scottish Government's wider policy objectives for planning.

Local development planning is a cross-cutting activity, requiring collaboration across policy interests and between diverse stakeholders. The new guidance will support all stakeholders to understand the new process, and their role in it. In addition, conversations with stakeholders which have taken place throughout the period of planning reform, including the public consultation on this proposal, have indicated that the new structure of the development plan – that is the NPF and relevant LDP – warrants the provision of further advice on how local development plans can take account of the national planning policies of NPF4.

Given the cross-cutting nature of development planning, it is considered that the new local development planning regulations and guidance will support the implementation of a local development planning system which contributes to all of the National Outcomes set out in the National Performance Framework.

Consultation

Within Government

The responsibility for this area of work lies with the Planning, Architecture and Regeneration Division (PARD) and the proposals have been developed by a core team with assistance from colleagues across the Division, particularly in relation to the thematic guidance. Communication with colleagues responsible for the preparation of NPF4 and community involvement in the planning system has been particularly important. Additionally, PARD has engaged with the Directorate for Planning and Environmental Appeals, wider Directorate for Local Government and Housing and Transport Scotland, as well as wider government portfolios as relevant including on economic development, energy, environment and forestry, marine, tourism and culture sectors.

Public consultation – stakeholder involvement in development phase

A period of focused collaboration informed the preparation of the consultation on the proposals for regulations and draft guidance. This followed the extensive engagement undertaken prior to the Planning (Scotland) Bill being considered by the Scottish Parliament during 2017 - 2019.

Business and Regulatory Impact Assessment (BRIA)

Following the passage of the 2019 Act, four working groups were convened to support the Transforming Planning in Practice programme, with one group focusing on development planning. This group comprised over 30 individuals from across the public sector, the private sector, the community and environmental sectors, professional institutes, and other relevant organisations. The group expressed an interest in proactively supporting development of the local development planning regulations and guidance. It was therefore decided to split the group into three subgroups, each focusing on a different element of local development plans.

The following organisations / groupings were represented on at least one of the subgroups. Heads of Planning Scotland, Homes for Scotland and the Royal Town Planning Institute were represented on all three subgroups.

Barton Willmore	Royal Institution of Chartered Surveyors
Community Land Scotland	Royal Town Planning Institute
Consultation Authorities	Scottish Cities Alliance
Directorate for Planning & Environmental Appeals	Scottish Enterprise
Heads of Planning Scotland	Scottish Federation of Housing Associations
Homes for Scotland	Scottish Futures Trust
Infrastructure Delivery Group	Scottish Planning Consultants Forum
Institution of Civil Engineers	Scottish Renewables
Indicative Regional Spatial Strategies	Strategic Planning Authorities
Key Agencies Group	The Highlands Small Communities Housing Trust
PAS	Transport Scotland
Public Health Scotland	

Each subgroup was tasked with exploring the following areas in more detail:

- scope and content of future LDPs,
- procedures for preparing LDPS, and
- the detail of the evidence report & gate check.

The sub-groups convened online (necessitated as a consequence of COVID restrictions on face to face meetings) at the end of 2020 and start of 2021. They were provided with written material, including work briefs and discussion papers (see Annex A), and a library of relevant information was made available online to support their conversations.

Each subgroup participated in two online roundtables facilitated by the PARD team responsible for developing the draft regulations and guidance, and prepared written outputs (available [online](#)) which were presented to the same team. These outputs subsequently informed the drafting of the consultation draft proposal.

Business and Regulatory Impact Assessment (BRIA)

The extensive public consultation which took place to inform the preparation of Draft NPF4 has also informed the drafting and finalisation of the local development planning regulations and guidance. Workshops, a call for ideas and public consultations on a Position Statement and subsequently Draft NPF4 itself generated comments relevant to how local development plans may take account of national planning policies.

Public consultation – draft regulations and guidance

Draft regulations and guidance were published for consultation on 17 December 2021 and the public consultation ran until 31 March 2022. 87 responses were received. The local development planning consultation ran concurrently with that seeking views on Draft NPF4, allowing stakeholders to consider the two complementary proposals in the round. We commissioned Ironside Farrar to provide an independent analysis of the consultation responses, which can be viewed [online](#).

The consultation sought views on the interim assessments and sought further information to assist with finalising them, including the interim BRIA. A minority of the respondents to the consultation commented on the interim assessments, and not all these comments were relevant to the BRIA.

Comments were received in response to the interim BRIA from Planning Authorities, Professional & Representative Bodies and Development & Land Management Bodies. The issue raised most frequently was concern about the resource capacity of planning authorities to implement the new local development planning system. Respondents highlighted the additional resource which will be required to fulfil the new evidence report and gate check stages of local development plan preparation, the additional community engagement requirements, and the nature of resource challenges faced by smaller rural planning authorities. Some scepticism was recorded regarding the estimates given in the interim BRIA of the potential savings achieved through implementing the new local development planning system over a 10-year period. One authority suggested that the proposed LDP processes could in fact incur additional expenditure due to the additional consultation and staff resources required.

Several respondents quoted research from RTPI Scotland highlighting reductions in planning authority resource over recent years, and a concern was raised that income from increased planning fees would not benefit development planning functions. No further information was provided to assist with quantifying expected costs and finalising the BRIA.

Meaning of ‘Gypsies and Travellers’

The meaning of ‘Gypsies and Travellers’ is to be specified in Regulations to provide clarity on whom planning authorities must seek the views of in the evidence report stage of LDP preparation, as required by the Planning (Scotland) Act 2019. A separate consultation on a proposed definition of ‘Gypsies and Travellers’ was held between December 2022 and February 2023, which asked respondents whether they believed this (or any) definition would have an impact on businesses. 15 responded ‘yes’ while 22 responded ‘no’. Of those who responded ‘yes’, the impact that this definition would have on businesses was reported

Business and Regulatory Impact Assessment (BRIA)

as mixed, with some voicing concern over the ongoing stigma Gypsies and Travellers face in business-related situations (particularly Travelling Showpeople who run show/circus/fairground businesses), while others consider that this definition can provide clarity and assurance.

Self-build registers – engagement on guidance

The consultation draft local development planning guidance did not include draft guidance regarding the implementation of the self-build housing registers introduced by the 2019 Act. Engagement with relevant stakeholders regarding proposals for this element of guidance took place separately, with an online roundtable held in June 2022 involving a range of interests including from the sector and planning authorities. The outputs will inform the development of this section of guidance.

Consultation with business

As described above the preparation of the consultation documents was informed by a period of focused engagement with a range of stakeholders, including representatives of business. Business representatives participated in the subgroups as follows:

- LDP procedures – Homes for Scotland / Scottish Cities Alliance / Scottish Federation of Housing Associations / Scottish Planning Consultants Forum
- LDP scope & content – Homes for Scotland / Barton Willmore / Scottish Property Federation
- Evidence report & gate check – Homes for Scotland / Scottish Enterprise / Scottish Renewables

Twenty responses to the public consultation were received from businesses, or organisations primarily representing business interests. The business sectors represented were aquaculture, energy, housebuilding, planning consultancy and property.

In addition to the public consultation, background information on the interim BRIA and a questionnaire was sent to around 33 key stakeholders from across Scotland, including key business and industry representatives, professional representative bodies and regulatory bodies. Despite encouragement, and the interest expressed in the questionnaire in responses to the public consultation, only two responses were received to the BRIA questionnaire. No organisation accepted the offer of a face to face meeting to discuss the BRIA in particular. We are, however, satisfied that the consultation undertaken over the course of preparing the regulations and guidance provided opportunity for potential impacts to be highlighted.

Options

Consequential amendments and updates to regulations

Option 1: Amendments are proposed to existing provisions to broadly update and align these with wider changes to circumstances, including changes introduced through the 2019 Act. These include:

- preparation and monitoring of local development plans – content / matters to be had regard to in preparing local development plans / publication / consultation
- examination of local development plans – costs / procedures / assessment
- examination of local development plans – modifications
- development plan schemes - content
- delivery programmes – form and content / procedures for publication and consultation
- meaning of Key Agency
- preparation and publication of proposed local development plans

Option 1a: As above but with additional substantive changes to provisions on the publication of proposed local development plans. Currently, existing provisions include requirements to publish a note in a local newspaper and on the internet; sending notice to identified stakeholders; making a copy of the proposed plan available for inspection at the planning authority offices and libraries; and, publishing it on the internet.

Option 2 - ‘Do Nothing’ - This is not considered to be an option – this would leave regulations out of date and incompatible with the amendments to the 1997 Act as made by the 2019 Act. Views were however invited on this options through the consultation process.

Option 3 – ‘Non-regulatory option’ - Include all of the detail proposed for regulations in the new local development planning guidance rather than secondary legislation. This option would provide less clarity for stakeholders, particularly if matters previously addressed in regulation were in the new system only addressed in guidance.

Matters to be addressed in regulations:

Option 1: New regulations are proposed on matters relating to the preparation of evidence reports. The proposed provisions will:

- require the Scottish Ministers to notify the planning authority when a person has been appointed to assess the evidence report and their name.
- provide a meaning of “Gypsies and Travellers” for the purposes of section 16B of the 1997 Act as amended.
- require the planning authority to either send a copy of, or make available, any document mentioned in the evidence report to the appointed person.
- provide that the appointed person is able to request further representations or further information be provided in connection with the assessment of the evidence report, at any stage of the assessment.
- require that the general costs of assessing the evidence report incurred by the Scottish Ministers or appointed person are to be met by the planning authority.

Business and Regulatory Impact Assessment (BRIA)

Option 2 - ‘Do Nothing’ ‘This is not considered to be an option - the evidence report is a new early stage of plan preparation. Section 16B(13) of the Act provides for Scottish Ministers to make regulations relating to the assessment of the evidence report, including costs, procedures and what is to be assessed.

Option 3 – ‘Non-regulatory option’ - Include the detail proposed for regulations in the new local development planning guidance rather than secondary legislation.

Matters to be addressed in guidance:

Option 1 – Non-regulatory option - The Scottish Government’s preferred option is to provide guidance on Ministers’ expectations for the local development planning system when taken in the round. The guidance will address the following matters:

- Aims and expectations of place-based LDPs
- Development plan schemes – role / Participation Statement
- Impact Assessments
- Local place plans and local development planning
- Self-build registers
- Evidence Report
 - – matters to be set out / minimum evidence requirements/ engagement / format
 - policy advice guidance on the implementation of NPF4
- Gate Check
- Proposed Plan
 - content / procedure / engagement / approval / modification / Strategic Environmental Assessment
 - policy advice on taking into account NPF4 national planning policies*
- Delivery Programme
 - procedure / aims
 - Policy advice on content
- Examination
 - procedure / matters to be considered / costs and administration / recommendations / Strategic Environmental Assessment
- Adoption – procedure
- Monitoring – purpose / procedure

* Previously, LDPs included planning policies specific to the planning authority area. However, NPF4 sets out a suite of national planning policies that form part of the development plan across Scotland. This is intended to free up time and resources for planning authorities and other stakeholders to focus on the spatial elements of LDPs.

Option 2 - ‘Do Nothing’ - This option could lead to uncertainty as to how the primary legislative changes to the planning system should be implemented, and could lead to duplication of effort between different planning authorities.

Option 3 – New provisions in regulations - This option could limit opportunity for Planning Authorities to take into account local circumstances, frustrate opportunities for best practice to evolve as the new system beds in, and could add unnecessary regulatory burden.

Sectors and groups affected

The proposed regulations and guidance implement the provisions of the 1997 Act as amended, and provide advice on how LDPs and supporting documents can support delivery of NPF4. The impacts of the changes made to the 1997 Act by the 2019 Act, and NPF4, have already been subject to assessment and the proposals in Draft NPF4 were subject of a separate assessment. This Final BRIA therefore only considers the additional impacts of the proposed new regulations and guidance.

Business – all options

The new local development planning system incorporates a stronger focus on collaboration, both in the preparation of LDPs and their delivery. As a result there are likely to be impacts on businesses who are stakeholders in the preparation of LDPs. This will include in particular housebuilders, retail and commercial property developers, the renewable energy sector, digital network providers, tourism and culture, and the minerals and aquaculture sectors. The new evidence report stage is likely to be of particular significance, as the proposed guidance highlights the need for engagement with relevant stakeholders in its preparation by planning authorities.

The 'Do Nothing' and non-regulatory options applicable to both the proposed regulations and guidance would both be likely to increase uncertainty for business about how they engage with the local development plan preparation process and advocate for their priorities. The options for minimal regulation, but with greater detail provided in guidance, should achieve a balance of providing clarity about how the system works, and when and how business stakeholders should aim to be involved, while offering sufficient flexibility to make adjustments which respond to experience from implementing the system.

Planning authorities – all options

The new processes will have significant impacts on planning authority teams involved in the local development plan process and how they take this work forward. The new local development planning system has a greater focus on collaboration in the preparation of local development plans, and as a result all options are likely to have an impact on other local authority / national park authority functions which have a spatial and / or land use dimension. The proposals as a whole are intended to strengthen local development plans, reducing the time spent on producing plans and giving them a greater focus on place and delivery. The proposed regulations and guidance are necessary to provide additional detail to the requirements set out in primary legislation.

The 'Do Nothing' and non-regulatory options would both be likely to increase uncertainty for planning authorities with regard to expectations about how the new system is implemented.

Communities and the third sector – all options

The 2019 Act introduced new statutory requirements for the involvement in local development planning of certain communities and the public at large. This is part of the wider move to make local development planning a more collaborative activity. The proposed guidance outlines local development planning procedures for the benefit of all stakeholders, including communities and the public at large.

Business and Regulatory Impact Assessment (BRIA)

Local place plans are likely to be of particular interest to communities. While subject to their own [regulations and guidance](#), this proposed LDP guidance will include some further detail about how they will interact with LDP procedures. The 2019 Act requires the engagement of communities and the public at large in the preparation of the evidence report, and again the guidance provides detail on how it is expected this engagement will work in practice.

Further guidance on community engagement with the local development planning system is currently under preparation and will be subject to its own consultation and impact assessment as appropriate.

Public bodies – all options

Key agencies are involved at all stages of LDP preparation and delivery, providing information to inform environmental reports and will contribute to new style plans being place-based, people centred and delivery orientated.

Local development plans will allocate land for new development and infrastructure so will have the potential to impact on the decisions, plans and strategies made by infrastructure providers in the areas of flood management, housing, transport and education, as examples. A collaborative approach is key to the successful implementation of the infrastructure first approach supported by the guidance. From preparation of the evidence report to the delivery of the local development plan the guidance anticipates a role for infrastructure providers in providing necessary information and working with planning authorities to overcome barriers to delivery.

As with other sectors and groups impacted by the new local development planning regulations and guidance the 'Do Nothing' and non-regulatory options outlined above would be likely to create significant uncertainty for other public bodies involved in local development planning. The Scottish Government's preferred approach of minimal regulation accompanied by guidance is designed to achieve a balance of a robust procedural framework supported by detail on implementation that can be updated as experience is gained.

Benefits

Consequential amendments and updates to regulations

The regulations proposed under the Scottish Government's preferred option, **Option 1**, will support the practical implementation of wider structural changes to the planning system which, when taken together, are intended to significantly strengthen LDPs and give a greater focus on place and delivery. Under **Option 1a** we do not consider there are any benefits from any additional substantive changes to publication arrangements for LDPs and consider the current arrangements strike an appropriate balance in ensuring those who wish to comment are made aware of the opportunity to do so.

There are no benefits associated with **Option 2**, 'Do Nothing' nor **Option 3**, 'Non-regulatory option'. While many stakeholders are familiar with the existing development planning regulations, much of the procedure to which these relate has already been amended by the 2019 Act, and so the accompanying regulations are now not relevant. Including these updated and realigned provisions in guidance instead of regulation, as per **Option 3**, would not improve clarity regarding local development planning procedures.

Matters to be addressed in regulations

Under **Option 1** the new regulations will give clarity around implementation of the new evidence report stage introduced by the 2019 Act, which is intended to significantly strengthen LDPs and give a greater focus on place and delivery.

There are no benefits associated with **Option 2**, 'Do Nothing' nor **Option 3**.

Matters to be addressed in guidance

Providing guidance to planning authorities and stakeholders on the matters listed under **Option 1** will give a clearer steer about the Scottish Ministers' expectations for the new local development planning system, while granting flexibility to planning authorities to take account of local circumstances. It is believed that this will better allow for new processes to evolve and for lessons from practice to inform continuous improvement. This is particularly notably with regard to the implementation of the new evidence report stage.

There are no benefits considered to arise under **Option 2**.

Option 3 could offer increased certainty to all planning stakeholders about the expectations for evidence reports.

Costs

Consequential amendments and updates to regulations

Under **Option 1**, planning authorities and stakeholders will need to familiarise themselves with the changes to regulations in the short to medium term. Consultation responses to the interim BRIA largely focused on concerns about the potential resource burden on planning authorities. These regulations are proposed in the context of implementing wider structural changes to the development planning process, potential savings for which were estimated at the time of what is now the 2019 Act's Parliamentary scrutiny to be between £21.42m to £31.5m over 10 years for planning authorities. Much of the strategic change to local development planning procedure was made by the Act, and these regulations provide for how the requirements of the Act should be fulfilled. Consultation responses recorded some scepticism regarding the above figures, however in this context it is important to note that the Act lengthened the period by when LDPs can be reviewed, from five to ten years, therefore reducing the frequency of LDP procedures and associated costs. In addition no further information was provided in the responses to the consultation on the interim BRIA regarding what the potential costs for planning authorities of implementing the regulations may be.

With regard to improving certainty around costs in the future, prior to a proposed plan being submitted for examination the Planning and Environmental Appeals Division (DPEA) may be able to advise in relation to average costs of previous examinations. Once the plan has been submitted for examination DPEA could then provide an estimate of costs based on the appointed Reporter's project plan for the examination. If the time taken is estimated, at any stage of the examination, to be more or less than 5% of the original estimate the DPEA could advise the authority of this change and also the reasons for this.

The [NPF4 delivery programme](#) includes a series of activities underway with the aim of supporting planning authorities with the skills and resources they need to implement the reformed planning system. This includes investigation of a mechanism to move planning fees to full cost recovery, development of mandatory Elected Member training, and working with relevant stakeholders to develop the future pipeline of planning professionals.

The costs of the proposals on business will depend on the level of involvement in the local development plan and the approach taken by each organisation. Representatives of groups with business interests were members of the working sub-groups, including house-builders, consultants and property developers. The views of business and industry interests were invited as part of the public consultation. The responses received from business representative bodies focused on concern regarding the resource capacity of planning authorities to implement the new development planning system.

Under **Option 1a**, a reduction in publication requirements could reduce upfront costs, e.g. of publication fees. It follows that any substantive additional publication requirements could introduce new administrative requirements for authorities from implementing the new procedures as well as new up-front costs.

Options 2 and 3 could result in increased uncertainty in the planning system, which would have likely costs for businesses whose operations depend on its efficient operation.

Business and Regulatory Impact Assessment (BRIA)

Matters to be addressed in regulations:

Under **Option 1**, planning authorities and stakeholders will need to familiarise themselves with the new regulations, and procedure for the new evidence report stage as a whole. Consultation responses to the interim BRIA largely focused on concerns about the potential resource burden on planning authorities, and some mentioned the evidence report in particular in this respect. It is important to note that these regulations are proposed in the context of implementing wider structural changes to the development planning process, potential savings for which were estimated at the time of what is now the 2019 Act's Parliamentary scrutiny to be between £21.42m to £31.5m over 10 years for planning authorities. The evidence report stage and the procedural framework to support it has already been introduced by the Act, and these regulations provide for how the requirements of the Act should be fulfilled. Consultation responses recorded some scepticism regarding the above figures, however in this context it is important to note that the Act lengthened the period by when LDPs can be reviewed, from five to ten years, therefore reducing the frequency of LDP procedures and associated costs. In addition no further information was provided in the responses to the consultation on the interim BRIA regarding what the potential costs for planning authorities of implementing the evidence report stage may be.

With regard to improving certainty around costs in the future, once the DPEA has gained experience in carrying out assessment of evidence reports, there may be scope for planning authorities to be provided with an estimate of costs associated with the assessment of a submitted evidence report, on its submission.

The costs of the proposals on business will depend on the level of involvement in the local development plan and the approach taken by each organisation. Representatives of groups with business interests were members of the sub-groups, including house-builders, consultants and property developers. The views of business and industry interests were invited as part of the public consultation. The responses received from business representative bodies focused on concern regarding the resource capacity of planning authorities to implement the new development planning system.

The evidence report is a new stage in the preparation of a local development plan, and stakeholder engagement throughout the development of this proposal has demonstrated an appetite for clarity about what is expected. **Options 2 and 3** would not be conducive to providing this clarity, with likely costs for planning authorities and businesses whose operations depend on its efficient operation as a consequence.

Matters to be addressed in guidance:

As previously indicated, the changes made to development planning in the Planning Bill were estimated to deliver potential savings to planning authorities of between £21.42m to £31.5m over a ten year period. The changes were not expected to have any overall impact on costs for developers, landowners, communities and individuals. Costs would, however, be dependent on the level of involvement in the local development plan and the approach taken by each organisation.

Consultation responses to the interim BRIA largely focused on concerns about the potential resource burden on planning authorities. It is important to note that the guidance is proposed in the context of implementing wider structural changes to the development

Business and Regulatory Impact Assessment (BRIA)

planning process, potential savings for which were estimated at the time of what is now the 2019 Act's Parliamentary scrutiny to be between £21.42m to £31.5m over 10 years for planning authorities. The guidance will support planning authorities and other stakeholders in implementing the new local development planning system. It is intended to offer some flexibility so that planning authorities are able to implement the new system in the most appropriate way for their area. Consultation responses recorded some scepticism regarding the above figures, however in this context it is important to note that the Act lengthened the period by when LDPs can be reviewed, from five to ten years, therefore reducing the frequency of LDP procedures and associated costs. In addition no further information was provided in the responses to the consultation on the interim BRIA regarding what the potential costs for planning authorities of implementing the guidance may be.

Some of the consultation responses raising concerns about the resource burden on planning authorities made particular mention of the new evidence report stage. The finalised guidance will include advice on the contents of evidence reports, responding to wider consultation feedback regarding defining "minimum evidence requirements". While it is acknowledged that the resource required to compile evidence reports is of some concern to planning authorities, including this information in guidance instead of regulation is intended to minimise the cost, and allow planning authorities to fulfil their statutory responsibilities in a way that is tailored to local need.

Following consultation on draft guidance, which took place alongside consultation on the draft regulations, comprehensive guidance is being finalised in which the Scottish Ministers set out clearly their intentions and expectations for the new system for preparing LDPs. This guidance will operate alongside that already contained in relevant extant Planning Circulars, and NPF4. With regard to the latter, the guidance will include advice about how LDPs can take account of its national planning policies. An Interim BRIA was prepared to consider the likely costs and benefits associated with the proposals in draft NPF4, and as with this proposal a questionnaire was issued to stakeholders so that more detailed consideration could be given to the range of policy proposals. The finalisation of the national planning policies, which has implications for the advice to be included in the guidance, therefore took account of the responses to the consultation on the NPF4 Interim BRIA. The final LDP guidance on implementation of NPF4 policies will take account of changes made to NPF4 between its Draft and final stages.

Option 2 would be likely to result in uncertainty and a lack of clarity about expectations for the local development planning system following changes made by the 2019 Act. Consultation feedback on the proposal demonstrated that there is an appetite among planning authorities and other stakeholders for clarity in this respect.

Option 3 could limit opportunity for Planning Authorities to take into account local circumstances, and frustrate opportunities for best practice to evolve as the new system beds in and could add unnecessary regulatory burden.

Regulatory and EU alignment impacts

Intra-UK Trade

This measure is not likely to impact on intra-UK trade.

International Trade

This measure is not likely to impact on international trade and investment.

EU alignment

This measure is not likely to impact on the Scottish Government's policy to maintain alignment with the EU.

Scottish Firms Impact Test

Engagement with business in the design of the new local development planning regulations and guidance has taken place through focused stakeholder involvement in the development phase, public consultation on draft versions, and the issuing of a targeted questionnaire sent to representative bodies of those industries most directly affected by the proposed measure, with onward transmission to their members welcomed.

Development phase

Information, including the business sectors represented, regarding the focused stakeholder engagement that informed the development phase of the local development planning regulations and guidance is provided above under the consultation section. The work briefs supplied to the working group and the written outputs produced can be read [online](#).

BRIA questionnaire

A questionnaire was sent to the representative bodies of the of the industries most directly affected by the proposed measure, with onward transmission to their members welcomed. It was also sent to key agencies, local authorities and third sector bodies. It asked for information on the current costs of engaging with the planning system and views on the possible impacts of the proposals (both individually and cumulatively) in the draft regulations and guidance on those costs. The questionnaire was issued shortly after the publication of draft NPF4. A copy of the questionnaire and the questions asked can be found at Annex B.

Given that most small and micro businesses will only occasionally deal with the planning system, it was considered that a questionnaire sent to representative bodies was the best way to engage. Recipients were encouraged to send on the questionnaire to members and other relevant business contacts. Respondents were offered the opportunity for further engagement with officials, although none took up that opportunity.

Business and Regulatory Impact Assessment (BRIA)

Two responses were received to the questionnaire. The results are summarised below:

- Resourcing and skills within planning authorities should be considered in more detail, particularly the likely cost discrepancies between rural and urban planning authorities
- Savings anticipated through extending the plan period from 5 years to 10 years may not materialise, as a result of the option to renew plans earlier, if beneficial

The findings of the questionnaire were grouped alongside consultation responses and have fed into the finalisation of this BRIA and the local development planning regulations and guidance.

Public consultation

An analysis of the results of the public consultation on the interim BRIA is provided above.

This proposal for new local development planning regulations and guidance has been finalised while taking account of comments expressed during engagement regarding the resource burden for planning authorities. There has been some debate during engagement in the proposal in general regarding the level of detail around the evidence report stage that should be provided in regulation, as opposed to guidance. It is believed that maintaining a minimal level of regulation, with further advice provided in guidance, will give planning authorities the greatest flexibility to implement the new system in the way most appropriate to their area.

Competition Assessment

There are no obvious impacts on competition from the proposed regulations or guidance, and no applicable issues were raised through the consultation process.

Consumer Assessment

It is not anticipated that the proposed regulations or guidance will have any impact on consumers. Views were sought on this during consultation on the Interim BRIA.

Test run of business forms

The proposed regulations and guidance do not introduce any new forms for business etc. to complete.

Digital Impact Test

Publicity arrangements for LDPs are set out in the amended Town and Country Planning (Scotland) Act 1997. The regulations include additional requirements relating to publishing material on the internet. However, such measures are in addition to other publicity requirements (newspapers, etc.) so it is not considered that the regulations will have any impact on digital technologies or on traditional or offline businesses.

Legal Aid Impact Test

These changes would not affect claims for legal aid.

Enforcement, sanctions and monitoring

The preparation of local development plans is governed by provisions set out in the Town and Country Planning (Scotland) Act 1997 as amended.

Implementation and Delivery Plan

It is expected that all planning authorities will have adopted a new style local development plan within five years of the proposed regulations coming into force, and the publication of the finalised guidance. Advice on transitional arrangements has been published. The NPF4 Delivery Programme also sets out a range of actions that will help to support the roll-out of local development plans.

Post-implementation review

The guidance can adapt and evolve as we learn from implementation of the new LDP system. Scottish Government involvement in the Heads of Planning Scotland Development Planning Subcommittee will be a key route for monitoring where the new system is working well, and where it may be possible to make improvements.

Oversight of how new style LDPs respond to and align with NPF4 is an important component of the NPF4 delivery programme, therefore monitoring and evaluation of NPF4 will also feed into post-implementation review of the new LDPs regulations and guidance.

Summary and recommendation

There is support for Scotland's plan-led system of development. The Planning (Scotland) Act 2019 changed the primary legislative framework for development planning, with the intention of strengthening LDPs. Other provisions of the 2019 Act brought the National Planning Framework within the statutory development plan for the first time. These changes together create an opportunity for LDPs to refocus on delivery of place-based outcomes, including those which support the national planning policies of NPF4.

This BRIA has been informed by consultation with the business sector, including a focused period of engagement during the development phase, and this has informed the finalisation of the regulations and guidance. Several respondents to the public consultation highlighted research produced by RTPI Scotland, highlighting resource pressures within planning authorities, although no further information was provided to support this.

The proposed regulations and guidance aim to strike a balance between the need for transparency and clarity on one hand to support all stakeholders in implementing the new system, whilst allowing a degree of flexibility to allow for best practice to evolve as the new system beds in. This approach is also intended to allow some flexibility for planning authorities to implement the statutory procedures in a way which best suits their

Business and Regulatory Impact Assessment (BRIA)

organisational priorities. The level of regulation proposed will provide planning authorities and all stakeholders with a clear statutory framework for the new LDPs system, while the guidance will complement this with a greater level of detail.

Responses to the interim BRIA largely focused on the likely capacity of planning authorities to resource the new system, and possible subsequent impacts on businesses which engage with the planning system. In particular, there were concerns that the cost savings quoted would be outweighed by the need for more resource and different skills to deal with new work areas. Much of the strategic change to local development planning procedure was made by the 2019 Act, and these regulations provide for how the requirements of the Act should be fulfilled. The regulations and guidance were informed by extensive engagement with key stakeholders, and the finalisation of them has taken account of the priorities raised through this engagement as well as the public consultation. The regulations have been kept to the minimum level, and the guidance will assist planning authorities with implementation of the legislative requirements on the 2019 Act, as well as the regulations.

Work being taken forward by the High Level Group, together with wider work on performance, improvement and reform, will support a cross sectoral approach to skills and resourcing of the new local development planning system.

The stakeholder engagement that has informed this proposal has revealed a strong appetite for clarity with regard to the new local development planning system itself, in addition to how this operates alongside NPF4. This, combined with an appreciation of the opportunity of building in adaptability to the new system, to respond to lessons learned from experience, means that the recommendation is to proceed with the preferred strategy, or option 1 under all three subsections of the proposal.

Summary costs and benefits table

Option	Total benefit per annum: - economic, environmental, social	Total cost per annum: - economic, environmental, social – policy and administrative
Consequential amendments and updates to regulations		
1 – Preferred option	Will support planning authorities and other stakeholders in making a shift to place-based, delivery focused LDPs, following the changes made to the development planning system by the 2019 Act. This approach provides flexibility for updates and adjustments to be made in response to experience.	Planning authorities and stakeholders will need to familiarise themselves with the new regulations. Costs on businesses who engage with the local development planning system will vary depending on the approach taken by individual organisations.

Business and Regulatory Impact Assessment (BRIA)


1a – Changes to publication provisions	No additional benefits.	Further publication requirements would likely increase associated costs.
2 – Do nothing	No benefits.	Uncertainty and a lack of clarity would exist around expectations for local development planning processes following the changes made by the 2019 Act.
3 – Non-regulatory option	No benefits.	Uncertainty and a lack of clarity would exist around expectations for local development planning processes following the changes made by the 2019 Act.
Matters to be addressed in regulations		
1 – Preferred option	Provide clarity to all stakeholders on the operation of the new evidence report stage of LDP preparation, introduced by the 2019 Act.	Planning authorities and stakeholders will need to familiarise themselves with the new regulations. Costs on businesses who engage with the local development planning system will vary depending on the approach taken by individual organisations.
2 – Do nothing	No benefits.	Uncertainty and a lack of clarity would exist around expectations for the new evidence report stage introduced by the 2019 Act.
3 – Non-regulatory option	No benefits.	Uncertainty and a lack of clarity would exist around expectations for the new evidence report stage introduced by the 2019 Act.
Matters to be addressed in guidance		
1 – Non-regulatory option – preferred option.	Provide a clear steer for the Scottish Ministers' expectations for new style LDPs while maintaining the flexibility to make updates and adjustments in	Planning authorities and stakeholders will need to familiarise themselves with the new guidance.

Business and Regulatory Impact Assessment (BRIA)

	<p>response to learnings from experience.</p> <p>Supporting planning authorities with advice about taking NPF4 policies into account in LDPs.</p>	<p>Meeting expectations for the evidence report will have an administrative cost for planning authorities, and stakeholders involved in providing relevant information. However, advice regarding these expectations responds to consultation feedback, and this cost is expected to be lower than a potential cost associated if the expectations were outlined in regulation rather than guidance.</p>
2 – Do nothing.	No benefits.	<p>Uncertainty and a lack of clarity would exist around expectations for local development planning processes following the changes made by the 2019 Act.</p>
3 – Provisions in regulations.	<p>Greater clarity for stakeholders about procedure.</p>	<p>This approach could limit opportunity for Planning Authorities to take into account local circumstances, and frustrate opportunities for best practice to evolve as the new system beds in. It could also add unnecessary regulatory burden.</p>

Declaration and publication

I have read the business and regulatory impact assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options. I am satisfied that business impact has been/will be assessed with the support of businesses in Scotland.

Signed: 

Tom Arthur MSP - Minister for Public Finance, Planning and Community Wealth

Date: 22/03/2023

Scottish Government Contact point: Chief.Planner@gov.scot

ANNEX A – SUBGROUP WORK BRIEFS

SUB GROUP : LDP PROCEDURES

Aims

To produce a clear description of the new process for preparing a local development plan following the Planning (Scotland) Act 2019.

Members

Organisations represented
Heads of Planning Scotland
Royal Town Planning Institute
Homes for Scotland
PAS
RSS Groups
Scottish Cities Alliance
Scottish Federation of Housing Associations
Scottish Planning Consultants Forum
Key Agency Group
Scottish Futures Trust
Public Health Scotland

Outputs

- **Flow chart** of the process, milestones and outputs needed for preparing an LDP.
- **Description** of the individual stages, including **legal** requirements, advice on **how** to meet them, identification of **responsibilities** and **timescales** for each stage.

Co-ordination

A separate sub-group is considering the Evidence Report and Gatecheck. The outputs sought from these groups have been structured so that they can be aligned rather than work be duplicated.

The community engagement working group also has a separate work stream on community engagement in LDPs. The SEA Consultation Authorities have been working collectively on the alignment of SEA with the new LDP process.

Working across the above interests will be necessary.

Issues to consider

- Audience of the guidance document
- New process for amending LDPs and the triggers
[Regulations relating to section 12 of the 2019 Act (amendments to NPF & LDPs) are programmed for after those relating to section 7 (LDPs). A high level consideration of matters relating to amendments, appropriate to progress LDP regulations, is therefore sufficient for this work.]
- SEA alignment

SUB GROUP : LDP SCOPE & CONTENT

Aim

To produce a visual of what a future place-based LDP should look like.

Members

Organisations represented
Heads of Planning Scotland
Royal Town Planning Institute
Homes for Scotland
Barton Willmore
The Highlands Small Communities Housing Trust
Institution of Civil Engineers
Key Agencies Group
Linlithgow Community council
Scottish Environment LINK
Scottish Property Federation
SDP Managers

Outputs

- Signposting a series of succinct **case-studies / exemplars** highlighting key messages for what a ‘good looking plan’ should be and suggestions on **how this can be disseminated** to wider planning stakeholders.
- Suggestions on content that was **previously in Supplementary Guidance**.
- A graphic showing the **connection** of the LDP to other key documents, nationally, regionally and locally.

Co-ordination

Work is on-going on the digital transformation of the planning system. A+DS are carrying out work to set out key messages on place planning for decarbonisation for future development planning. Working across these interests will be necessary.

Issues to Consider

- Audience of plans
- Format of plans – paper / digital
- Content and structure, including level of detail
- Flexibility to local circumstances
- Legal publication and consultation requirements
- Links to documents associated with the plan preparation process and wider issues, such as infrastructure first approach.
- UK or international examples of relevance.

SUB GROUP : EVIDENCE REPORT & GATE CHECK

Aim

To produce a clear description of the process to prepare an Evidence Report following the Planning (Scotland) Act 2019.

Members

Organisations represented
Heads of Planning Scotland
Royal Town Planning Institute
Homes for Scotland
Community Land Scotland
Directorate for Planning & Environmental Appeals
Royal Institution of Chartered Surveyors
Scottish Enterprise
Scottish Renewables
Transport Scotland
Consultation Authorities
Infrastructure Delivery Group

Outputs

- **Flow chart** of the process, milestones and outputs for preparing an evidence report.
- **Description** of the individual stages, including **legal** requirements, good practice advice on **how** to meet them, identification of **responsibilities** and **timescales** for each stage.
- Suggestion for the **format / structure** of an evidence report and how it could link to evidence that is of a significant volume.

Co-ordination

Scot.Gov. will work closely with DPEA on regulations for the gate check process. The community engagement working group also has a separate work stream on community engagement in LDPs. The Improvement Service and Key Agency Group have been progressing a project on the environmental evidence for plans. Working across these interests will be necessary.

Issues to Consider

- Output of Moray Council lead practice work.
- Audience of the Evidence Report
- Links to key evidence requirements e.g. SEA, HNDA and Transport Assessment
- Need for further trial runs on key areas.

ANNEX B – TARGETED QUESTIONNAIRE

BUSINESS AND REGULATORY IMPACT ASSESSMENT QUESTIONNAIRE: NATIONAL PLANNING FRAMEWORK 4 / LOCAL DEVELOPMENT PLAN REGULATIONS AND GUIDANCE:

National Planning Framework 4

Scotland's fourth National Planning Framework (NPF4) will be a long term plan to 2045 that will guide spatial development, set out national planning policies, designate national developments and highlight regional spatial priorities.

[Draft NPF4](#) was published on 10 November 2021 and comments are invited by all stakeholders by 31 March 2022. Further details about how to get involved in the consultation process along with additional supporting material can be found at www.transformingplanning.scot.

A Business and Regulatory Impact Assessment (BRIA) will accompany the final draft of NPF4 when it is presented to Parliament following consideration of the responses submitted to Draft NPF4. The BRIA will consider the likely costs, benefits and risks that may be associated with the adoption of NPF4.

A [Partial BRIA](#) accompanied draft NPF4. This provides a very high level assessment of possible impacts. Our intention is to work closely with stakeholders to ensure that the final BRIA reflects their views.

Local Development Plan Regulations and Guidance

Local Development Plans (LDPs) set out how our local places will change in the future, including where development should and should not happen. They form part of the statutory 'development plan' and will, alongside the National Planning Framework, be the main basis for all decisions on planning applications. We want a new approach to preparing plans. Significant changes to development planning were made by the Planning (Scotland) Act 2019. To guide implementation of these changes we are consulting on [proposed regulations and guidance for local development plans](#).

We also want to consider in greater detail any costs, benefits and risks that may be associated with these changes. A [Partial BRIA](#) accompanied the consultation paper.

Business and Regulatory Impact Assessment Questionnaire

The Partial BRIAs confirm that a questionnaire will be distributed primarily to the representative bodies of those industries most likely to be directly affected by the proposals in both the draft NPF4 and local development planning consultations. The questionnaire is attached below. We would like to invite

BRIA – Annex B -Targeted Questionnaire

you to participate in this process by completing the questionnaire and returning to us.

We would be grateful if you could forward the questionnaire to your member organisations so that they can consider whether any of the policy changes proposed are likely to have significant impacts, either individually or cumulatively, on their operations. In considering this, the focus should be on any changes that are being proposed to the existing policies set out in National Planning Framework 3, Scottish Planning Policy and the current development plan process, as amended by the Town and Country Planning (Scotland) Act 2019.

If your members consider that these proposals are likely to result in additional costs, benefits or risks then we would appreciate them taking the time to complete the questionnaire so that their views can be considered and reflected in the final BRIA. It is useful to discuss responses in more detail so we are proposing a number of follow up interviews with individual businesses across the sectors likely to be impacted by these changes. The questionnaire should be used to confirm whether businesses would like to engage in this way.

I would be grateful if completed questionnaires could be returned via the scotplan@gov.scot mailbox by 31 March 2022.

An alternative approach for contributing to the BRIA process would be to:

- respond to consultation Question 70 when completing a response to the draft [NPF4 consultation process](#);

and/or

- respond to consultation Question 2 when completing a response to the Local Development Planning Regulations and Guidance [Consultation process](#).

Thanks for your help in this process.

Planning and Architecture Division
Scottish Government
January 2022

Name of Organisation	
-----------------------------	--

QUESTIONS

Sectorial information

Is there information available, or that you can provide, on the contribution that the sector in which you operate makes to the Scottish economy (production, employments, exports, GDP, etc.).

Specific proposals

Are there any changes proposed in the Draft NPF4 and the Local Development Planning Regulations and Guidance that you think will impose additional, or reduce existing, costs on your business or organisation?

Please also consider cumulative impacts if you consider relevant.

National Planning Framework 4:

Local Development Plan's:

Costs

Please provide details of all likely costs (additional and savings) associated with the proposals identified above including, where applicable, non-monetary costs.

National Planning Framework 4:

Local Development Plan's:

Benefits

What are the benefits associated with the proposals identified above?

National Planning Framework 4:

Local Development Plan's:

Impacts on competition

BRIA – Annex B -Targeted Questionnaire

Are there any proposals that you think will have an impact on competition within the sector that you operate? This might include proposals that will directly or indirectly limit the number or range of suppliers or their ability to compete?

If yes, please provide further details:

National Planning Framework 4:

Local Development Plan's:

Impacts on consumers

Will the proposals limit or improve the choices available to consumers? This might include the quality, availability or price of any goods or services in a market or the provision of essential services, such as energy or water?

If yes, please provide further details:

National Planning Framework 4:

Local Development Plan's:

Other Comments

BRIA – Annex B -Targeted Questionnaire

National Planning Framework 4:

Local Development Plan's:

Thank you for your comments. Would you be happy for the Scottish Government to contact you again to discuss your comments further?

If yes, please provide the following contact details:

Name	e-mail address

Child Rights and Wellbeing Impact Assessment (CRWIA)

CRWIA Contents

<u>Introduction</u>	36
<u>Which articles of the UNCRC does this policy/measure impact on?</u>	37
<u>What impact will your policy/measure have on children’s rights?</u>	38
<u>Will there be different impacts on different groups of children and young people?</u>	38
<u>If a negative impact is assessed for any area of rights or any group of children and young people, can you explain why this is necessary and proportionate? What options have you considered to modify the proposal, or mitigate the impact?</u>	39
<u>How will the policy/measure give better or further effect to the implementation of the UNCRC in Scotland?</u>	39
<u>How have you consulted with relevant stakeholders, including involving children and young people in the development of the policy/measure?</u>	41
<u>What evidence have you used to inform your assessment?</u>	43
<u>How will the impact of the policy/measure be monitored?</u>	47
<u>How will you communicate to children and young people the impact of the policy/measure on their rights?</u>	47
<u>Sign & Date</u>	48

Children's Rights and Wellbeing Impact Assessment (CRWIA)

Introduction

As set out in Part 1 of the Children and Young People (Scotland) Act 2014, Scottish Ministers must keep under consideration whether there are any steps which they could take which would or might secure better or further effect in Scotland of the UNCRC requirements, and if they consider it appropriate to do so, take any of the steps identified by that consideration. Undertaking a Child's Rights and Wellbeing Impact Assessment (CRWIA) helps Ministers to fulfil this duty.

There are two key considerations when undertaking a CRWIA:

Participation: The United Nations Convention on the Right of the Child (UNCRC) sets out that children have the right to participate in decisions which affect them. When assessing the impacts of the policy/measure, you are recommended to consult with children and young people. You can do this directly, through organisations that represent children and young people or through using existing evidence on the views and experiences of children where relevant. Participation of children and young people should be meaningful and accessible.

The Local Development Planning Regulations and guidance are part of our wider work on planning reform and implementing the Planning Scotland Act 2019 (the 2019 Act). They provide advice on the implementation of the 2019 Act and National Planning Framework 4, and should be viewed within the context of the overarching provisions on LDPs as set out in the 2019 Act.

The Local Development Planning Regulations and guidance consultation sought views on the secondary legislative requirements and the guidance to stakeholders on implementing the future local development plan system.

There is strong support for a plan-led planning system in Scotland. Our ongoing programme of planning reform seeks to strengthen and simplify Local Development Plans (LDPs). We want to refocus plans on the outcomes that they deliver for people and places, rather than the preparation process. We want plans to be informed by consultation and collaboration so that they are relevant, and accessible and interest people. We want this new approach to LDPs to result in new style plans which support the management and use of land in the long term public interest.

The 2019 Act introduces a purpose of planning which is the overall aim of the planning system in Scotland to "manage the development and use of land in the long term public interest" (section 3ZA(1)).

Our aims for LDPs contribute to the following national outcomes contained in the [National Performance Framework](#) :

- We live in communities that are inclusive, empowered, resilient and safe.
- We have a globally competitive, entrepreneurial, inclusive and sustainable economy.
- We value, enjoy, protect and enhance our environment.
- We are healthy and active.

Children’s Rights and Wellbeing Impact Assessment (CRWIA)

The CRWIA is used to identify, research, analyse and record the impact of proposed legislation on children's human rights and wellbeing. The impacts can be direct or indirect; short, medium or long-term; and positive, negative or neutral.

The 2019 Act requires that development planning, which includes LDPs, manages the development and use of land in the long-term public interest. LDPs focus on the future of the places where we all live, work, learn and play. How LDPs are prepared and what they contain affects everyone, and how we experience the places around us. The regulations and guidance that instruct and guide preparation therefore also have the potential to affect everyone.

In providing advice on the implementation of legislative requirements, the guidance will refer to a range of societal groups, including children and young people (particularly school pupils, youth councillors and youth parliament representatives).

The public consultation sought views on the proposed regulations and draft guidance and also sought views on the interim CRWIA. An Equalities Impact Assessment (EQIA), Island Communities Impact Assessment (ICIA) and have also been undertaken and consulted on. A screening of the Fairer Scotland Duty Assessment was also undertaken and provided with the interim impact assessments.

Which articles of the UNCRC does this policy/measure impact on?

This final impact assessment considers how the proposals for regulations relate to the relevant [Articles of the UNCRC¹](#), in particular in relation to Articles 3, 12, 23, 24, 27,28 and 31.

Article 3 (best interests of the child)

The best interests of the child must be a top priority in all decisions and actions that affect children.

Article 12 (respect for the views of the child)

Every child has the right to express their views, feelings and wishes in all matters

Article 23 (children with a disability)

A child with a disability has the right to live a full and decent life with dignity and, as far as possible, independence and to play an active part in the community. Governments must do all they can to support disabled children and their families.

Article 24 (health and health services)

Every child has the right to the best possible health. Governments must provide good quality health care, clean water, nutritious food, and a clean environment and education on health and well-being so that children can stay healthy. Richer countries must help poorer countries achieve this.

Article 27 (adequate standard of living)

¹ <https://www.unicef.org.uk/rights-respecting-schools/wp-content/uploads/sites/4/2017/01/Summary-of-the-UNCRC.pdf>

Children's Rights and Wellbeing Impact Assessment (CRWIA)

Every child has the right to a standard of living that is good enough to meet their physical and social needs and support their development. Governments must help families who cannot afford to provide this.

Article 28 (right to education)

Every child has the right to an education. Primary education must be free and different forms of secondary education must be available to every child. Discipline in schools must respect children's dignity and their rights. Richer countries must help poorer countries achieve this.

Article 31 (leisure, play and culture)

Every child has the right to relax, play and take part in a wide range of cultural and artistic activities.

What impact will your policy/measure have on children's rights?

The Local Development Planning Regulations and Guidance have the potential to have a positive impact on children's rights.

Will there be different impacts on different groups of children and young people?

The consultation that was carried out between December 2021 and March 2022 on the new regulations and guidance for LDPs, proposed to hold a separate consultation on a meaning of 'Gypsies and Travellers' to be specified in regulations. This was to enable the targeted involvement of Gypsy and Traveller communities and for the explanation of the specific matters associated with the requirements to be set out.

The consultation on a meaning of 'Gypsies and Travellers' was held between December 2022 and February 2023 and an interim CRWIA was published alongside other interim impact assessments. The interim CRWIA concluded that the proposed definition will have a positive impact on children's rights within Gypsy and Traveller communities, informed by a range of sources, including government census data and third sector publications specialising in young Gypsy/Traveller views and experiences. The responses to this consultation indicate no potential negative impact of this definition on children and young people of Gypsy and Traveller communities.

The results of this assessment demonstrate that there are likely to be no potentially negative impacts of the proposed definition on children and young people from Gypsy and Traveller communities. There are specific sections within the 2019 Act, and reiterated within the LDP guidance, which require both Gypsies/Travellers and children/young people to be actively engaged in the LDP preparation process and for their views to be listened to.

The regulations and guidance also reinforce the requirements of the 2019 Act, including aspects requiring engagement with disabled people, which will include children and young people.

Children's Rights and Wellbeing Impact Assessment (CRWIA)

If a negative impact is assessed for any area of rights or any group of children and young people, can you explain why this is necessary and proportionate? What options have you considered to modify the proposal, or mitigate the impact?

No negative impact is assessed.

How will the policy/measure give better or further effect to the implementation of the UNCRC in Scotland?

The results of this assessment demonstrate that there are likely to be no potentially negative impacts of the regulations and guidance. There are specific sections within the 2019 Act, and reiterated within the guidance, which require children and young people to be actively engaged in the LDP preparation process and for their views to be listened to. We acknowledge that further guidance on effective community engagement will be helpful, and this will be consulted upon and finalised in due course.

The Local Development Planning Regulations and Guidance have the potential to have a positive impact on the rights of all children by helping to deliver a healthier, safer, fairer and more inclusive Scotland where every child and young person has the opportunity to fulfil their potential. The process of the preparation of the new style LDPs is set out in the 2019 Act and advice on the implementation of these legislative requirements is provided in the regulations and guidance. We envisage that LDPs will potentially provide an additional opportunity for children and young people to become more actively engaged in the planning system.

There are a number of specific requirements within the 2019 Act to engage children and young people in the development plan preparation process, and to listen to their views. These are set out in the guidance with detail on how to implement the requirements as follows:

The planning authority is required to seek the views of particular groups of people, including children and young people (particularly school pupils, youth councillors and youth parliament representatives), and have regard to those views when preparing the evidence report (section 16B(2) of the 2019 Act).

The Evidence Report must include a statement on how the planning authority has sought particular stakeholders' views, including children and young people, and how these views are taken into account in the report (section 16B(4) of the 2019 Act).

Planning authorities must have regard to any guidance issued by the Scottish Ministers in relation to effective community engagement (section 16C). They must also promote and facilitate the participation of children and young people under the age of 25 in their preparation of the proposed plan (section 16A(1)). As a starting point, this must include schools, youth councils and youth parliament representatives within the authority area (section 16A(2)). The planning authority must publish and maintain up to date information about how children and young people have been involved in LDP preparation (section 16A(3)).

Children's Rights and Wellbeing Impact Assessment (CRWIA)

As part of the development plan scheme, the participation statement will outline the engagement that will take place in relation to the preparation of the proposed plan. The planning authority is expected to consult with children and young people, following on from the participation required in the preparation of the proposed plan. The guidance will highlight that planning authorities may wish to promoting the plan through digital channels to a wider audience and making it easier for more children and young people to engage in the preparation of new LDPs. This will encourage the use of social media, which may be a way to further increase engagement amongst children and young people who may use digital communications more than older groups of people.

The needs of young Gypsies/Travellers are unique compared to the rest of the community, as opportunity to play, proximity to educational facilities and access to transport are key in their wellbeing and development. While the definition of 'Gypsies and Travellers' is to be used solely to inform planning local authorities about whose views to seek in preparing the evidence report, creating a comprehensive definition that can identify the whole community allows young Gypsies and Travellers to put their needs forward.

The guidance will indicate the vision for new LDPs to be more map based, looking at more concise plans, with less written text in policies. The aspiration is for more engaging plans that are easier to read and understand and what it means for local areas. Plans should be relevant and accessible to the people with an interest in that place, which includes children and young people. The guidance itself contains helpful graphics and diagrams to make it more accessible and easier to understand key messages.

The spatial strategy should address the wider concept of play and playability through other relevant policy areas, to identify and maximise the opportunities for play in the community / neighbourhood. Plans should prioritise actions in disadvantaged communities, to ensure the adequate provision of publicly accessible, good quality outdoor play opportunities for formal, informal and incidental play help to tackle inequality and improve health and wellbeing outcomes for children in such areas. Plans should recognise the importance of quality greenspace for play and the range of health and wellbeing benefits this creates for children and young people.

Based on town centre audits and strategies, development plans should identify opportunities for living in city and town centres. A mix of unit types, sizes and tenures should be promoted to ensure there is variety of town centre living accommodation, catering to a range of needs. Where family housing is incorporated in the plan, provision should be made to ensure there are sufficient equitable opportunities for children to play safely, meet friends and relax.

Section 16D of the 2019 Act requires the planning authority to assess the sufficiency of play opportunities in its area for children, to establish needs and demands to be met, and community aspirations. A play sufficiency assessment is the assessment of the sufficiency of play opportunities for children in their area, carried out by a planning authority under the this duty of the Planning Act. The assessment forms part of the evidence report for the preparation of the LDP.

Children's Rights and Wellbeing Impact Assessment (CRWIA)

National Planning Framework 4 (NPF4) Policy 21 supports and facilitates spaces and opportunities for play, recreation and sport in our natural and built environments for children and people for all ages. NPF4 states LDPs 'should identify sites for sports, play and outdoor recreation for people of all ages. This should be based on an understanding of the needs and demand in the community and informed by the planning authority's Play Sufficiency Assessment and Open Space Strategy.'

The guidance will indicate that as a matter of good practice "the planning authority is expected to engage with a range of people at all stages in the preparation of the LDP. The authority should engage with the public at large and seek the views of particular organisations and societal groups, including key agencies, children and young people, disabled persons, Gypsy/Travellers and community councils."

The Scottish Government has found that the regulations and guidance do not impinge negatively upon articles of the UNCRC.

However, we recognise the need for guidance on effective community engagement to ensure that all people, including children and young people, are able to engage fully in the development plan making process, and that plan makers have regard to these views. This guidance is expected to be prepared in due course.

How have you consulted with relevant stakeholders, including involving children and young people in the development of the policy/measure?

The Planning Places Survey Report concluded that the majority of young people feel they should be involved in planning in their local area and that their local councils should look at ways to support children and young people to do this.

Whilst prepared for the development of NPF4, the results of the [NPF4 Youth Engagement report](#) provided an insight into key issues as identified by young people. The most frequently mentioned issue was housing and the community provision linked with it (doctors, schools, community and leisure centres) but also affordability. Young people also want more encouragement for communities on smaller projects (gardening, art, social activities) which could possibly lead to a stronger sense of belonging to an area.

[Young Gypsy/Travellers Discuss the United Nations Convention on the Rights of the Child - Children and Young People's Evidence Bank \(2018\)](#) included recommendations that there should be more opportunities for young Gypsy / Travellers to take part in decision making and have their voices heard.

This is also reflected in [Health Inequalities: Peer research into the role of communities \(2020\)](#) which noted that children and young people want to be involved in decisions about the places they live.

Democracy Matters to Children (2020) also noted that 'children's paths to meaningful involvement in decision-making are currently limited and many children have limited or no experience of participation in democratic processes'. It identified a number of local issues as ones which children wanted to have a say in – this included planning and the built environment.

Children's Rights and Wellbeing Impact Assessment (CRWIA)

[Responses to the NPF4 Position Statement \(2021\)](#) called for action to address inequality of opportunity to participate, with specific calls for a greater voice for children and young people and groups such as Gypsy/Travellers.

Between December 2021 and March 2022, views were sought on the Scottish Government's proposals on secondary legislative requirements in draft regulations and guidance on Local Development Planning . Part D of this covered the required Interim Impact Assessments, including the interim CRWIA.

We asked 32 consultation questions. These sought views on our proposed approach of keeping regulations to the minimum necessary, around detailed wording aspects of the draft regulations, the interim impact assessments and pre-screenings and on the draft guidance. We asked for responses by 31 March 2022, allowing around 15 weeks for comments. In total, there were 87 responses to our consultation questions. These included responses from 78 organisations and 9 from the category of community and individuals. Respondents included planning authorities, key agencies and the public sector, development, property and land management bodies, the energy sector, the third sector, professional and representative bodies as well as communities and individuals. Ironside Farrar were commissioned to undertake an independent analysis of the comments received, the report provides the detail of the comments and sets out some main conclusions. Several planning authorities thought that the interim assessments were comprehensive and provide a strong basis for the regulations. There were limited responses regarding the interim CRWIA, which resulted in no specific changes to the CRWIA approach that was proposed.

The [National Islands Plan Survey Final Report \(2021\)](#): Island residents generally perceive that they have little influence over decisions made by local and national organisations, and more influence over community organisations and community councils, particularly in the Outer Isles of Orkney and Shetland, where around half of residents feel they can influence decisions made by their community council. 42% of younger people (aged 18 to 35) compared to 30% of older people (aged 66 and over) report that they can influence decisions made by community organisations such as Development Trusts and community groups.

[Young People and the Highlands and Islands \(2018\)](#): levels of community participation varied by geography, with the highest levels reported by young people in Orkney (81%), Shetland (72%) and the Outer Hebrides (70%).

The [Young People's Participation in Decision Making: Attitudes and Perceptions research \(2020\)](#) found that around six in ten of young people surveyed (58%) agreed that adults were good at taking their views into account when making decisions that affect them. This was an increase from 2017 when 53 % agreed. Boys were more positive on both questions. Older children, for example pupils in S6 were more negative.

Children's Rights and Wellbeing Impact Assessment (CRWIA)

What evidence have you used to inform your assessment?

The likely effects of the Local Development Planning Regulations and guidance were informed by a range of evidence including professional working groups and the examination of evidence from a range of studies, reports and surveys including:

- Beyond4Walls² (2016)
- Planning Places Survey Report³ (2017)
- Hard to Reach, Easy to Ignore⁴ (2017)
- Young Gypsy/Travellers Discuss the United Nations Convention on the Rights of the Child - Children and Young People's Evidence Bank⁵ (2018)
- Girls in Scotland 2018⁶ (2018)
- Young People and the Highlands and Islands: Maximising Opportunities⁷ (2018)
- Poverty in Scotland⁸ (2019)
- Scottish Household Survey: Annual Report 2018⁹ (2019)
- National Transport Strategy Review Young Scot¹⁰ (2019)
- Children and parents: media use and attitudes report¹¹ (2019)
- Young people's participation in decision making: attitudes and perceptions¹² (2020)
- Population Projections for Scottish Areas 2018-based¹³ (2020)
- Health Inequalities: Peer research into the role of communities¹⁴ (2020)
- Democracy Matters to Children¹⁵ (2020)
- Travel and Transport in Scotland 2019¹⁶ (2020)
- Social Attitudes Survey 2019: Attitudes to Young People¹⁷ (2020)

² Available to download from [Children & Young People's Evidence Bank](#)

³ <https://www.gov.scot/binaries/content/documents/govscot/publications/factsheet/2017/06/planning-review-young-scot-survey-results-june-2017/documents/planning-review-young-scot-survey-results-pdf/planning-review-young-scot-survey-results-pdf/govscot:document/Planning%20Review%20Young%20Scot%20survey%20results.pdf>

⁴ <http://whatworksscotland.ac.uk/publications/hard-to-reach-or-easy-to-ignore-promoting-equality-in-community-engagement-evidence-review/>

⁵ [Young Gypsy/Travellers Discuss the United Nations Convention on the Rights of the Child - Children and Young People's Evidence Bank](#)

⁶ <https://www.girlguidingscotland.org.uk/wp-content/uploads/2020/08/Girls-in-Scotland-survey-2018.pdf>

⁷ <https://www.hie.co.uk/research-and-reports/our-reports/2018/may/31/yp-research/>

⁸ <https://www.jrf.org.uk/report/poverty-scotland-2019>

⁹ <https://www.gov.scot/publications/scotlands-people-annual-report-results-2018-scottish-household-survey/>

¹⁰ <https://youngscot.net/ysobservatory/national-transport-review/>

¹¹ [Children and parents: media use and attitudes report 2019 - Ofcom](#)

¹² [Young people's participation in decision making: attitudes and perceptions - gov.scot \(www.gov.scot\)](#)

¹³ <https://www.nrscotland.gov.uk/files//statistics/population-projections/sub-national-pp-18/pop-proj-principal-2018-report.pdf#:~:text=The%20population%20of%20Scotland%20is%20projected%20to%20increase,than%20that%20seen%20in%20the%20last%2010%20years/>

¹⁴ [Health Inequalities Report Chris Ross.pdf \(childreninscotland.org.uk\)](#)

¹⁵ [Democracy Matters Consultation - Children's Parliament \(childrensparliament.org.uk\)](#)

¹⁶ <https://www.transport.gov.scot/publication/transport-and-travel-in-scotland-2019-results-from-the-scottish-household-survey/>

¹⁷ <https://www.gov.scot/publications/scottish-social-attitudes-2019-attitudes-young-people/pages/2/>

Children's Rights and Wellbeing Impact Assessment (CRWIA)

- NPF4 Call for ideas: Analysis of responses¹⁸ (2020)
- If not now, when? - Social Renewal Advisory Board report¹⁹ (2021)
- Progress Review of Scotland's Play Strategy²⁰ (2021)
- The National Islands Plan Survey Final Report²¹ (2021)
- National Performance Framework: disability perspective analysis (2021)²²
- NPF4: Position Statement: Youth Engagement Report²³ (2021)
- NPF4: Position Statement: Responses²⁴ (2021)
- Draft NPF4: Consultation Analysis²⁵ (2022)
- Draft Local Development Planning Regulations and Guidance: Consultation Analysis²⁶(2022)

The views of children and young people and associated evidence on a number of key themes within the 2019 Act are set out below:

Participation

Children and young people have been clear that they should be involved in the shaping of the places that they stay in. This view is supported by evidence provided by Young Gypsy / Travellers.

Responses to the NPF4 Position Statement called for action to address inequality of opportunity to participate, with specific calls for a greater voice for children and young people and groups such as Gypsy/Travellers.

Responses to the consultation suggested that community bodies should be required to engage with children and young people, but also that, without support for engagement, children and young people are likely to struggle to engage in the development of LPPs.

It should be noted that revisions arising from the Planning (Scotland) Act 2019 will enhance the opportunities for children and young people's voices to be heard at the local development plan stage.

Evidence would also suggest that there may be barriers to children and young people's engagement.

¹⁸ <https://www.gov.scot/publications/npf4-analysis-reponses-call-ideas/>

¹⁹ [If not now, when? - Social Renewal Advisory Board report: January 2021 - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/if-not-now-when-social-renewal-advisory-board-report-january-2021/)

²⁰ [Play-Scotland-Play-Strategy-Review-Play-in-Covid-2021.pdf \(playscotland.org\)](https://www.gov.scot/publications/play-scotland-play-strategy-review-play-in-covid-2021/)

²¹ <https://www.gov.scot/binaries/content/documents/govscot/publications/research-and-analysis/2021/07/national-islands-plan-survey-final-report/documents/national-islands-plan-survey-final-report/national-islands-plan-survey-final-report/govscot%3Adocument/national-islands-plan-survey-final-report.pdf>

²² [National Performance Framework - disability perspective: analysis - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/national-performance-framework-disability-perspective-analysis/)

²³ <https://www.transformingplanning.scot/national-planning-framework/position-statement>

²⁴ https://consult.gov.scot/planning-architecture/national-planning-framework-position-statement/consultation/published_select_respondent

²⁵ [National Planning Framework 4 - draft: consultation analysis - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/national-planning-framework-4-draft-consultation-analysis/)

²⁶ [Local development planning regulations and guidance - draft: consultation analysis - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/local-development-planning-regulations-and-guidance-draft-consultation-analysis/)

Children's Rights and Wellbeing Impact Assessment (CRWIA)

The 2019 Social Attitudes Survey highlighted that a majority of adults felt that young people aged 16 to 18 should have 'a great deal' or 'quite a lot' of say in decisions that affect their lives. The proportion believing this for those aged 11 to 15 was much smaller.

And the 2021 National Performance Framework - disability perspective: analysis found that fewer disabled young people agreed that adults were good at taking their views into account than non-disabled young people in 2019 (54% vs 62%).

Housing

Beyond4Walls (2016) reported that the need for good quality housing was regarded as essential, with many of the young people believing that housing must be affordably heated, have space for them to study, have Wi-Fi and be a place they feel safe. Young people also identified the importance of having a voice in their own community and good transport links.

The PAS NPF4 Youth Engagement Report (2021) found that issues around housing are important, including its affordability and associated infrastructure.

The NPF4 Position Statement analysis noted that the issue of affordable housing was highlighted in the context of rural supply where it was suggested that the lack of affordable housing is a major contributory factor in young people and families relocating away from rural areas, and that addressing this issue will be key to reversing rural depopulation.

Spaces and places

Children want a return to play, more play and better play. This was children and young people's overwhelming response to a consultation on play undertaken by Play Scotland in early 2021. It went on to note that children wish to play in parks and natural environments such as the beach and woods, and participate in a wide range of physical activities such as football, swimming, dancing and cycling.

Health Inequalities: Peer research into the role of communities (2020) reported that children wanted to:

- improve the quality of green spaces;
- deal with vandalism and regenerate abandoned spaces; and
- use planning processes to get support for healthier shops and restaurants to set up in communities.

Democracy Matters for Children (2020) noted the following:

- one of the most prominent themes was the importance of the physical environment for children. Children frequently want 'lots of green spaces' and 'more places to play' 'protected wildlife' and provisions in place around personal safety.
- on leisure and socialising, children were keen for spaces for people to spend time socialising.
- children valued places to be physically activity both in and outdoors.

Children's Rights and Wellbeing Impact Assessment (CRWIA)

The Girls in Scotland (2018) survey, undertaken by Girl Guides Scotland, showed that 23% of girls said their area had few, or no community facilities.

Responses to consultations on the development of NPF4 noted that planning should consider young people, including through providing youth clubs and other facilities for teenagers.

The NSPCC Report Challenges from the Frontline – Revisited (2020) noted that intensive family support should be Community Based: support must be explicitly connected to, or even housed in, locations that work for local families and the community, such as schools, health centres, village halls and sports centres. Communities must have a say in where support is located.

Transport and Connectivity

Engagement reported in 2019 with Young Scot to inform the National Transport Strategy revealed that key issues for young people include the availability and cost of public transport, particularly to further and higher education, and personal safety when using services.

This would appear to confirm the Girls in Scotland (2018) survey, undertaken by Girl Guides Scotland, which showed that 55% of girls said public transport could be better.

Public Health Scotland. The impact of COVID-19 on children and young people in Scotland: 10 to 17-years-olds (2021) suggests that for some young people, limited access to digital resources, digital connection – both hardware and software (e.g. broadband access) was a barrier to social engagement and to their educational development, potentially exacerbating existing inequalities.

The Understanding Society COVID-19 (2020) study noted that across all age groups (primary, secondary and post-secondary), 9% of students whose parents/carers were unemployed did not have access to an electronic device, compared with 3% of students whose parents/carers were employed or employed and furloughed.

Inequalities

Every Child, Every Chance (2018) recognises that to tackle poverty overall it is necessary to focus on 'priority families' at high risk of poverty: lone parents, families with a disabled adult or child, young mothers, minority ethnic families, families with a child under 1, and larger families (with three or more children).

The Joseph Rowntree Foundation report Poverty in Scotland (2019) noted that the largest falls in poverty rates seen in the past 20 years have been among pensioners and children. But despite improvements over time, children remain the most at-risk group in terms of poverty, with rates far above average, followed by working-age adults with children.

However, it is estimated that 24% of children (240,000 children each year) were living in relative poverty after housing costs in 2017-20. Before housing costs, it is estimated that 21% of children (210,000 children each year) were in relative poverty.

Children's Rights and Wellbeing Impact Assessment (CRWIA)

After a long fall between the late nineties and 2010-13, which slowed briefly just before the recession, child poverty rates have been gradually rising again.

The drivers of child poverty include: income from employment, costs of living and income from social security and benefits in kind. Planning has a particular role to play in the provision of:

- good quality work
- housing (including energy and food) costs are minimised
- accessible childcare
- accessible and affordable public transport
- access to the internet.

Health and Wellbeing

In 2019, the proportion of children (aged 2–15) who met the recommended physical activity level over the last seven days, was the lowest in the time series:

- 71% in 2008
- 76% in 2016
- 69% in 2019

Increasing active travel can subsequently increase the level of physical activity in both children and adults. It could mean less use of the car, which would reduce air and noise pollution and the number of incidents and accidents involving cars. Vulnerable people in the population such as children can be the most affected by poorer air quality.

How will the impact of the policy/measure be monitored?

We consider that of the eight wellbeing indicators (Safe, Healthy, Achieving, Nurtured, Active, Respected, Responsible, Included (known by the acronym SHANARRI)), the regulation and guidance relates to:

- Included: Having help to overcome social, educational, physical and economic inequalities and being accepted as part of the community in which they live and learn.
- Respected: Given a voice and involved in the decisions that affect their wellbeing.
- Responsible: Taking an active role in their schools and community.

The guidance is intended to be a live document, and it is structured in parts to offer access to the different types of information as needed by different audiences. This also enables the parts to be reviewed individually so that it can adapt and evolve as we learn how the new LDP system is implemented in practice.

How will you communicate to children and young people the impact of the policy/measure on their rights?

We are currently progressing wider planning reforms and keen to ensure that children and young people have strong voice in an improved planning system. We will consider how best to raise awareness and engagement in planning - with a view to increasing involvement in development planning and decision making, but also to encourage a pipeline of future planning professions.

Children's Rights and Wellbeing Impact Assessment (CRWIA)

Planning, Architecture and Regeneration Division uses two social media / twitter accounts ([@ScotGovPlanning](#) and [@Placestandard](#)) which will be used to highlight the LDP Regulations and guidance and the opportunities for children and young people to be involved in the preparation of LDPs for their community. The Division's e-alert / email is sent to around 1500 subscribers, which may include parents and carers and organisations that represent children and their interests. A letter from the Chief Planner may also be issued to highlight the coming into force of the new regulations and the publication of the associated LDP guidance

There are a number of specific requirements within the 2019 Act to ensure local authorities engage children and young people in the development plan preparation process, and to listen to their views. For example, the guidance now suggests planning authorities promote their proposed plan through the internet. This is a means for them to promote the plan through digital channels to a wider audience and making it easier for more children and young people to engage in the preparation of new LDPs, as well as organisations and groups that represent children and their interests.

Sign & Date

Policy Lead Signature & Date of Sign Off:

Signed: Kristen Anderson

Date: 22/03/2023

Deputy Director Signature & Date of Sign Off

Signed: Dr Fiona Simpson – Chief Planner

Date: 22/03/2023

Equalities Impact Assessment (EQIA)

EQIA Results Contents

<u>Title of Policy</u>	50
<u>Summary of aims and desired outcomes of Policy</u>	50
<u>Directorate: Division: team</u>	50
<u>Executive summary</u>	50
<u>Background</u>	50
<u>The Scope of the EQIA</u>	52
<u>Key Findings</u>	52
<u>Recommendations and Conclusion</u>	55

Equality Impact Assessment - Results

Title of Policy

Development Planning – Regulations and Guidance

Summary of aims and desired outcomes of Policy

The Town and Country Planning (Development Planning) (Scotland) Regulations 2023 and associated guidance are part of wider work on planning reform and implementing the Planning (Scotland) Act 2019 (the 2019 Act).

Directorate: Division: team

Local Government and Communities Directorate
Planning, Architecture and Regeneration Division
Planning Transformation team

Executive summary

The public sector equality duty requires the Scottish Government to assess the impact of applying a proposed new or revised policy or practice. Equality legislation covers the protected characteristics of: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex (gender) and sexual orientation.

This Equality Impact Assessment (EQIA) has considered the potential impacts of the Town and Country Planning (Development Planning) (Scotland) Regulations 2023 (the Regulations) and associated Development Planning Guidance (the guidance) on each of the protected characteristics. The provisions and how they impact on people across the protected characteristics are set out under Key Findings.

Since the Regulations and Guidance are intended to be of positive benefit to Scotland's communities, regardless of whether they fall into one or more protected groups, the EQIA has not identified any policy impacts that would adversely impact on such groups. The evidence gathered and data analysed indicate that overall the Regulations and guidance will have a positive impact on equality issues. As a result, it is not considered that any changes to the Regulations and Guidance should be made as a result of the assessment. However, the EQIA identifies that the guidance is intended to be a live document and can adapt and evolve as we learn how the new local development planning system is implemented in practice.

Background

An EQIA aims to consider how a policy may impact, either positively or negatively, on different sectors of the population in different ways.

The Equality Act 2010 harmonised existing equality legislation and includes a public sector duty ('the Duty') which requires public authorities to pay due regard to the need to:

Equalities Impact Assessment (EQIA)

- Eliminate discrimination, harassment, victimisation or any other prohibited conduct;
- Advance equality of opportunity; and
- Foster good relations between different groups – by tackling prejudice and promoting understanding.

The Development Planning Regulations and guidance are part of our wider work on planning reform and implementing the 2019 Act. They should be viewed within the context of the overarching provisions on LDPs as set out in the Town and Country Planning (Scotland) Act, 1997, as amended by the 2019 Act.

There is strong support for a plan-led planning system in Scotland. Local Development Plans (LDPs) set out how our local places will change into the future, including where development should and shouldn't happen. It is a legal requirement for planning authorities to prepare LDPs. They form part of the statutory 'development plan' and will, alongside the National Planning Framework, be the basis for all decisions on planning applications.

Our ongoing programme of planning reform seeks to strengthen and simplify LDPs. We want to refocus plans on the outcomes that they deliver for people and places, rather than the preparation process. We want plans to be informed by consultation and collaboration so that they are relevant, and accessible and interest people. We want this new approach to LDPs to result in new style plans which support the management and use of land in the long term public interest.

These aims support the 'purpose of planning' that was introduced by the 2019 Act and relates to development planning, of which LDPs are a part. The Act defines the purpose as: 'planning is to manage the development and use of land in the long term public interest'.

Our aim is for LDPs to contribute to the following national outcomes contained in the National Performance Framework:

- We live in communities that are inclusive, empowered, resilient and safe.
- We have a globally competitive, entrepreneurial, inclusive and sustainable economy.
- We value, enjoy, protect and enhance our environment.
- We are healthy and active

The Regulations form the secondary legislative requirements and the guidance will explain these to stakeholders to support implementation of the future local development plan system.

The EQIA has considered the potential impacts of introducing the Regulations and guidance on each of the protected characteristics. Whilst there is not currently a specific Human Rights Impact Assessment, human rights considerations should be embedded throughout the policy making process and are also considered within the EQIA.

The Scope of the EQIA

In order to determine the potential equality impact of the proposals the Scottish Government undertook a review of equality issues informed by a range of evidence, including an online public consultation running between December 2021 and March 2022 which included an interim EQIA, various pieces of research, stakeholder engagement, plus use of the Scottish Government's Equalities Evidence Finder.

Key Findings

Age

The [Scottish Household Survey \(2019\)](#) provides an initial indication that older people have stronger feelings of belonging to their community and they want action to ensure that they have access to opportunities to remain actively engaged with and involved in, their communities. In 2019, almost 9 in 10 adults (86%) aged 60 and above said they felt a very or fairly strong sense of belonging to their community, compared to 7 in 10 (70%) of those aged between 16 and 39.

The [Scottish Household Survey \(2019\)](#) also noted that the strongest desire to participate in local decision making was shown by those aged 25 to 34 and that many children have limited or no experience of participation in democratic processes.

Whilst there has been a significant increase in internet use amongst older adults aged 60+ (from 29% to 66%) there are lower rates of internet use among older adults than among younger adults. In 2019, almost all (99%) adults aged 16-24 reported using the internet compared to 43 per cent of those aged 75+. ([Inequalities by age in the context of Covid-19, 2020](#))

A survey by [YoungScot \(2017\)](#) showed that the majority of young people feel they should be involved in planning in their local area and that their local councils should look at ways to support children and young people to do this.

Disability

The [Scottish Household Survey \(2019\)](#) provides an initial indication that there is an equal proportion (30%) of adults with long term illness or disability living in rural areas compared to urban areas. It also highlights that use of the internet is lower for adults who have some form of limiting long-term physical or mental health condition or illness (71%) than for those who have some form of non-limiting condition or illness (90%) and those who have none (94%).

Disabled people are more likely to live in a household in poverty, more likely to live in social rented housing, and are less likely to have access to green and blue spaces ([Inequalities by age in the context of Covid-19, 2020](#)).

Sex

[Royal Town Planning Institute, Good Practice Note 7: Gender and Spatial Planning \(2007\)](#) provides an initial indication that women can find it more difficult to engage in planning processes, since they are more likely to provide unpaid care and the timing and places of consultation may not recognise caring responsibilities. Notwithstanding, they are slightly more likely than men to become involved, particularly in development management [Planning and Community Involvement in Scotland \(2004\)](#).

The [Scottish Household Survey \(2016\)](#) highlighted that there was no significant difference in use of internet between genders. More recent evidence shows that women have better cultural participation and sense of community belonging and they are somewhat more likely than men to say that they have a very strong feeling of belonging to their community [First Minister's National Advisory Council on Women and Girls 2019 Report and Recommendations \(2020\)](#).

Pregnancy And Maternity

There is limited evidence of the potential impact on pregnancy and maternity protected characteristic and the planning system.

Gender Reassignment

There is limited evidence of the potential impact on the gender reassignment protected characteristic and the planning system.

Sexual Orientation

The evidence relating to sexual orientation provides an initial indication that as a whole, this group had no special needs or requirements when it came to planning: that their views were representative of the general population. However, more recent research and guidance including in the [World Bank Handbook for Gender Inclusive Urban Planning and Design \(2020\)](#) suggests that our understanding of the needs of marginalised groups is developing.

Race

The [Scottish Household Survey: Annual Report 2019 \(2020\)](#) provides an initial indication that a larger percentage (78%) of those whose ethnicity was recorded as white expressed a very or fairly strong feeling of belonging compared to those whose ethnicity was recorded as minority ethnic (71%). Research undertaken by What Works Scotland highlighted that for minority ethnic groups, language barriers, lack of confidence and dominant characters can have a negative impact on their engagement ([Hard to reach, easy to ignore \(2017\)](#)).

Evidence relating specifically to Gypsy and Traveller communities indicated that they want to be consulted about where sites should be, that they should be part of the planning process to allow a say on what type of sites and facilities are wanted, and

there should be more opportunities to take part in decision making and for voices to be heard ([Planning processes in Scotland: a Gypsy/Traveller perspective \(2016\)](#))

Religion Or Belief

[Scottish Household Survey 2019](#) provides an initial indication that the percentage of adults who agreed that they could influence decisions affecting their local area was similar for all religious groups as follows - Other Religion (25%), Christians (20%) and No Religion (21%).

Evidence based plan-making

Before preparing a proposed local development plan the planning authority must prepare an evidence report. The evidence report is a potential benefit for people with protected characteristics because it promotes robust evidence based policy making. It can ensure evidence is inputted at the earliest point in the plan making process, embedding flexibility for LDPs to respond to local issues and characteristics.

The Act sets out those whose views the planning authority are to seek and have regard to in preparing an evidence report, this includes children and young people and the public at large. The evidence report is also to include a statement on the steps taken to seek the views of the public at large including in particular the views of disabled persons, children and young people and gypsies and travellers.

The regulations define 'Gypsies and Travellers' for the purpose of engagement on the evidence report. The guidance reinforces the provisions from primary and secondary legislation in relation to evidence reports, and indicates types of data planning authorities may wish to consider including in their evidence report. It also highlights it will be important for authorities to consider who needs to be included, including local groups and communities.

Community Engagement on Local Development Plans

Opportunities for engagement are a key part within the process of preparing local development plans. In providing advice on implementing the primary legislation, the guidance will outline those who should participate in preparing LDPs. It identifies those who must be involved and also highlights that planning authorities should take into account those who may be directly, or indirectly impacted by proposals, and provide opportunities for a diverse range of people to express their views.

Existing advice in Planning Advice Note 3/2010 on Community Engagement sets out that the needs of minority groups should be accommodated where possible, including the opportunity to access information in alternative formats such as Braille, large text and audio and the provision of information in alternative languages. The LDP guidance will support the principles of PAN 3/2010.

The regulations maintain the requirements relating to the manner of publication of the proposed plan as it has been to date. This includes publishing a notice in a local newspaper circulating in the area and on the internet, sending notice to identified stakeholders, making a copy available for inspection at a office of the planning

authority and in public libraries and publishing it on the internet. Our reasoning for retaining the hard copy elements of publication is that whilst we have seen increased digital access over time, local newspapers have remained a normal route to raise awareness. Social media notices are increasingly used in the publication of LDPs and supplement the minimum requirement of internet publication, and the guidance encourages planning authorities to consider using social media to increase reach and awareness of their plan. However, we also note that there are groups in society who use the internet less, including older people and disabled people.

People Centred Plans

The guidance sets out aims for LDPs including that they are people centred. It indicates preparation of an LDP should be collaborative to best meet the needs and aspirations of the different people who have an interest in a place and should be prepared with the involvement of local people. The guidance indicates to achieve the intended outcomes for people, a wide range of stakeholders will need to play a role.

Recommendations and Conclusion

We have used available data and the responses to the engagement exercises to finalise the Regulations and Guidance and Impact Assessments.

The EQIA has shown that evidence collected indicates that the Development Planning – Regulations and guidance are not likely to have adverse impacts on those with protected characteristics. Where they do have an impact, it is most likely to be positive and in relation to the protected characteristics of Age and Disability.

The regulations and guidance reinforce the requirements of the 2019 Act, including aspects requiring engagement with children and young people, disabled people and with Gypsy and Traveller communities, to take account of their accommodation needs. A separate consultation has been conducted on the definition of 'Gypsies and Travellers' for the purpose of informing the preparation of new LDPs.

With regard to eliminating unlawful discrimination, harassment and victimisation, concern was expressed that in relation to their accommodation needs, the EQIA highlighted the gypsy and traveller community are currently treated less favourably due to their protected characteristics. Similar issues were raised in relation to access to accessible housing for disabled people.

We will seek to embed equality monitoring as part of reviewing implementation of the Regulations and guidance. This will support implementation of the new system and also inform future policy development. If any future changes are made to the regulations or guidance, it will be necessary to revisit this EQIA to take account of those. We will ensure that in the development of further legislation and policy, is accompanied by appropriate assessment of the potential impacts. As a consequence the EQIA will become a living document requiring review.

Fairer Scotland Duty Assessment (FSDA)

FSDA Contents

<u>Overview</u> Title Lead Minister Lead Official Directorate / Division /Team	57
<u>Introduction</u>	57
<u>Summary of Aims and Expected Outcomes</u>	58
<u>Summary of Evidence</u>	60
<u>Assessment Findings and Improvements</u>	68
<u>Conclusion</u>	75
<u>Sign Off</u>	76

Fairer Scotland Duty Assessment

Title	Development Planning Regulations and Supporting Guidance
Lead Minister	Tom Arthur MSP Minister for Public Finance, Planning and Community Wealth
Lead official	Kristen Anderson
Directorate Division team	Local Government and Communities Directorate Planning, Architecture and Regeneration Division Planning Transformation team

Introduction

The consultation on the Development Planning Regulations and Guidance, was accompanied by Interim Impact Assessments, and in relation to [Fairer Scotland Duty a screening document](#). The consultation specifically invited views on the FSDA screening document.

In response to that question, there was agreement with the approach taken and consensus between Planning Authorities, Professional & Representative Bodies and the Energy Sector that the principles in the detailed regulations have already been established and considered by the assessments of the Planning Act (2019).

Detailed comments made in relation to the Fairer Scotland Duty Assessments were from:

- an Energy Company who welcomed the commentary on the climate emergency within the Assessment and the acknowledgement of need to rebalance the planning system for climate and nature recovery.
- A planning authority who noted the application of Scottish Index of Multiple Deprivation (SIMD) can be disadvantageous to rural areas as it does not capture the pattern of dispersed or rural deprivation, housing affordability and seasonal employment figures.

Summary of Aims and Expected Outcomes

The Development Planning Regulations aim to provide additional detail to the requirements for local development plans (LDPs) set out in the primary legislation the [Planning \(Scotland\) Act, 2019](#) (the 2019 Act). As well as setting out the process of preparing and monitoring LDPs the regulations also cover their form and content.

The Regulations are part of the wider planning reform programme which seeks to strengthen and simplify LDPs (there is already strong support for a plan-led planning system in Scotland).

The Development Planning guidance (the guidance) aims to explain the legal process of preparing LDPs, and provide policy advice on how LDPs can support the implementation of [National Planning Framework 4](#) (NPF4).

The guidance will set out the aims and expectations for new style plans. It will provide an indication of what they should be like in the future. We want to refocus plans on the outcomes that they deliver for people and places. We want this new approach to LDPs to result in new style plans which support the management and use of land in the long term public interest.

Our aim for LDPs is that they contribute to the following national outcomes contained in the [National Performance Framework](#):

- We live in communities that are inclusive, empowered, resilient and safe.
- We have a globally competitive, entrepreneurial, inclusive and sustainable economy.
- We value, enjoy, protect and enhance our environment.
- We are healthy and active.

The planning system should apply the Place Principle which commits us to take a collaborative place based approach to future development. This must involve working with stakeholders and local communities to create liveable, healthier and sustainable places that improve lives, build economic prosperity and contribute to net zero and environmental ambitions.

We want plans to be informed by consultation and collaboration so that they are relevant, and accessible and interest people.

The guidance will also set out the process of how to achieve a new style plan, working through the various stages in plan preparation. It will cover the legislative requirements from both the primary and secondary legislation, how these can be met and setting out details of responsibilities.

The guidance will also set out policy advice on how new style plans are expected to support the implementation of NPF4's policies for the development and use of land.

NPF4 looks to rebalance our planning system so that climate change and nature recovery are the primary guiding principles for all our plans and all our decisions. A place based approach is at the heart of creating a more sustainable and fair Scotland.

Fairer Scotland Duty Assessment (FSDA)

The guidance will provide further details around implementation of NPF4 through LDPs, setting out information to inform evidence reports, considerations for proposed plans (including spatial strategies and land allocations), and Delivery Programmes.

The guidance will support delivery of NPF4's six high level outcomes which include:

- meeting the housing needs of people living in Scotland including, in particular, the housing needs for older people and disabled people;
- improving the health and wellbeing of people living in Scotland;
- improving equality and eliminating discrimination; and
- increasing the population of rural areas of Scotland.

The guidance will aim to support the spatial strategy principles set out in NPF4, and provides guidance on how these can be applied locally.

To provide direct read across to help support implementation of NPF4, and roll out of its land use planning policies, through the development plan system. The guidance reflects the headings in NPF4 of :

- Sustainable places
- Liveable places
- Productive places

NPF4's policies and the supporting Development Plans guidance aim to support key issues supporting people's lives such as; tackling inequalities, engagement, local living, housing, spaces and places, work and inequalities, health and wellbeing and connectivity.

The Development Planning regulations and guidance therefore have the potential to impact development and land use, and people and communities of all backgrounds from across Scotland.

Summary of Evidence

This Fairer Scotland Duty assessment has been developed drawing on a range of primary and other source documents. We have also considered sources in the Scottish Government's equality evidence finder. Given the Development Planning guidance's close links to NPF4, this Fairer Scotland Duty Assessment, uses much of the same evidence base, as that for [NPF4](#).

Spatial Element of Inequalities

Evidence suggests that to tackle inequalities it is necessary to take both a spatial and thematic approach based on communities of geography and identity.

When considering tackling poverty, [Building the evidence base on tackling poverty](#) (2017) set out 'pockets', 'prospects' and 'places' as three drivers. "Places" includes: the regions and neighbourhoods people live in - impact of pollution on health, access to green space. Ability to access services and employment. Local labour market. Social networks. Regional variations in costs.

The main tool for identifying the places in Scotland where people are experiencing disadvantage across different aspects of their lives is the Scottish Index of Multiple Deprivation (SIMD). Its most recent iteration was published in 2020 and includes an [interactive map](#).

The latest update of the Scottish Index of Multiple Deprivation (SIMD) 2020 has been published by Scotland's Chief Statistician. This shows:

- the least deprived area is in Stockbridge, Edinburgh. This represents a change since SIMD 2016, when the least deprived area was in Giffnock
- the most deprived area is in Greenock town centre. This represents a change since SIMD 2016 and 2012, when the most deprived area was identified as Ferguslie Park, Paisley
- the area with the largest local share of deprived areas was Inverclyde, with 45% of data zones among the 20% most deprived areas in Scotland
- Glasgow City has similar deprivation levels at 44%
- other local authorities with relatively high levels of deprivation include North Ayrshire and West Dunbartonshire at 40% and Dundee City at 38%
- Na h-Eileanan an Siar, Shetland and Orkney have no areas among the 20% most deprived in Scotland, however, this does not mean there are no people experiencing deprivation living there
- over half of people on low income do not live in the 20% most deprived areas in Scotland
- levels of deprivation have fallen in Glasgow City, Renfrewshire and City of Edinburgh compared to SIMD 2016. Glasgow City showed the biggest fall, from 48% of data zones in the 20% most deprived areas in Scotland, to 44%
- levels of deprivation have increased in Aberdeen City, North Lanarkshire, Moray, East Lothian, Highland and North Ayrshire. None of these increases are greater than 2 percentage points.

It can also allow effective targeting of policies and funding where the aim is to wholly or partly tackle or take account of area concentrations of multiple deprivation.

Research also identified areas of Scotland that are expected to be most vulnerable to the consequences of EU Exit. An accompanying [interactive map](#) allows for more granular analysis of each datazone in Scotland. Key findings were that:

- The risks presented by EU Exit are anticipated to have significant social and economic consequences for all areas of Scotland.
- Many of the areas most vulnerable to EU Exit are in rural locations, in particular on the Scottish islands.

Public Health Scotland highlight one of the important determinants of health inequalities within society is the availability and nature of employment.

Differential Impact of Poverty and Protected Characteristics

[Poverty and Income Inequality in Scotland 2017-20](#) (2021) estimated that 19% of Scotland's population (1.03 million people each year) were living in relative poverty after housing costs in 2017-20. Before housing costs, 17% of the population (910,000 people) were living in poverty. Relative poverty is a measure of whether the lowest income households are keeping pace with middle income households across the UK.

After a long decline since the beginning of the time series in the mid-nineties, absolute poverty rates have stagnated in the last decade.

Before housing costs, 14% of the population (770,000 people each year) were in absolute poverty. The trend is similar to the after housing costs measure, although the downward trend started to stagnate a few years later.

Households on low incomes are more likely to experience fuel poverty than those on higher incomes. Scottish House Condition Survey data (2020) indicates that around 613,000 (24.6%) households were classified as living in fuel poverty in 2019, with around 311,000 (12.4%) living in extreme fuel poverty.

It also noted that approximately half (48%) of fuel poor households are other households (without children or older members). Around 16% of households living in fuel poverty are families with children, and 36% are older households.

Age and Poverty

The equality analysis of poverty showed that in the last 15 years, the youngest adults (16-24 year olds) have been consistently more likely to be in relative poverty compared to older adults.

Child poverty figures suggest that some types of households with children are known to be at a particularly high risk of poverty. These include households with single parents, three or more children, disabled household members, of a minority ethnic background, those with a child aged under one, or with a mother aged under 25. These groups do not cover everyone at higher risk of poverty, but taken together, they cover the majority of households with children that are in poverty.

Fairer Scotland Duty Assessment (FSDA)

It is estimated that 24% of children (240,000 children each year) were living in relative poverty after housing costs in 2017-20. Before housing costs, it is estimated that 21% of children (210,000 children each year) were in relative poverty.

Gender and Poverty

In 2017-20, the relative poverty rate after housing costs for all single adults (working-age and pensioners) was 27%, higher than for the total population (19%).

The poverty rate was highest for single women with children (38%, 40,000 single mothers each year).

The National Transport Strategy 2: [Fairer Scotland Duty Assessment](#) (2020) noted that women in Scotland are much more likely than men to be part-time workers (44% compared to 15%) with over 75% of Scotland's part-time workforce being female. Women are also more likely to be in low-paid work, with 64% of people paid below the Living Wage being female. In particular, lone parents, the vast majority of whom are women, are more likely to be living in poverty than other single working-age adults in Scotland.

Marital Status and Poverty

Relative poverty rates are highest for single, divorced & separated people, and lowest for married adults.

Poverty among widowed and divorced/separated adults largely decreased over the long term, whereas the trend for singles, cohabiting and married adults was broadly flat over time.

Ethnicity and Poverty

In 2015-20, people from non-white minority ethnic groups were more likely to be in relative poverty after housing costs compared to those from the 'White - British' and 'White - Other' groups.

The poverty rate was

- 43% for 'Mixed, Black or Black British and Other' ethnic groups (no population estimate available due to the small sample)
- 41% for the 'Asian or Asian British' ethnic groups (50,000 people each year),
- 24% (80,000 people) amongst the 'White - Other' group was); and
- 18% (860,000 people) of the 'White - British' group.

Religion and Poverty

In 2015-20, Muslim adults were more likely to be in relative poverty (52%, 30,000 each year) than adults overall (18%), after housing costs were taken into account.

Disability and Poverty

Poverty rates remain higher for households in which somebody is disabled compared to those where no-one is disabled. In 2017-20, the poverty rate after

housing costs for people in households with a disabled person was 23% (500,000 people each year). This compares with 17% (540,000 people) in a household without disabled household members.

Participation

Evidence suggests that people are keen to be involved in shaping the places that they stay and to be involved in local decision-making. However, in the 2019 [National Indicator Performance](#) report, 17.8% of people agreed that they can influence decisions affecting their local area, down from 20.1% in 2018. This is a decrease of 2.3 percentage points since last year, and is the lowest level since first measured in 2007.

Perceptions of ability to influence decisions and the desire to be involved in decision-making were lower in the most deprived areas compared to the least deprived areas ([Scotland's People Annual Report](#), 2018).

Over three-quarters (78%) of adults felt a very or fairly strong sense of belonging to their neighbourhood in 2019. This sense of belonging was lower for people living in deprived areas. ([Scottish Household Survey](#), 2019)

Housing and Accommodation

Living in poverty, or on a low income and with little or no wealth, restricts housing choices, presents affordability challenges and increases the likelihood of experiencing fuel poverty and the risks of homelessness.

The [Fairer Scotland Duty Assessment for the Heat in Buildings Strategy](#) notes housing is recognised as having an important influence on health inequalities in Scotland, with key pathways through housing quality and fuel poverty. Cold and damp homes may cause or exacerbate a number of health outcomes, primarily excess winter mortality, respiratory health conditions and mental health problems.

From the [Housing to 2040 Fairer Scotland Duty Assessment](#) we know that:

- Affordable housing helps to tackle poverty and inequality. Increasing the supply of affordable and social rented homes and tackling unreasonably high rents in the private rented sector will continue to make an impact on child poverty levels.
- Safe and warm homes and good neighbourhoods improve physical and mental health and wellbeing and build strong communities. Making sure homes add to and create great places will help to improve social cohesion, enable and contribute to community wealth building and unlock social capital across Scotland.
- Housing creates and supports jobs and drives inclusive economic growth and social benefits. Housing's unique place at the heart of thriving communities means that investment in housing, and all the indirect effects that flow from that, can contribute to community wealth and social renewal.

The [fuel poverty strategy](#) sets out an approach which considers the wider issues of social justice and the health impact of tackling fuel poverty. It seeks to:

- Remove poor energy efficiency as a driver for fuel poverty.

Fairer Scotland Duty Assessment (FSDA)

- Reduce greenhouse gas emissions through more energy efficient buildings and decarbonising our heat supply.

Local authority estimates, published in December 2020, showed that island and rural local authorities tended to have both higher fuel poverty rates and extreme fuel poverty rates ([Scottish House Condition Survey](#), 2017-2019).

Spaces and Places

The [Social Capital in Scotland: Report](#) (2020) suggests that we need to ensure there are good quality, affordable and accessible places and spaces where people spend time, gather and meet. It noted it is essential to create, retain and maintain the environmental and social infrastructure that supports social interactions and participation in communities – the informal public places, spaces, and facilities where people spend time, gather and meet. Evidence shows this is most important in the areas where there is a perceived lack of these places, e.g. in areas of deprivation.

On a range of indicators people who live in deprived areas are faring worse than those in less deprived areas, these include: a sense of belonging to their community or rating their neighbourhood as a good place; perceptions around the local crime rate; less likely to have access to greenspace; made visits to the outdoors; or living within 500 metres of vacant and derelict land and properties.

Planning has a crucial role to play in reducing inequalities by ensuring everyone lives in good quality places that support quality of life. [The Place Standard](#) is an effective tool for helping us all to understand the strengths and weaknesses of our places and reducing inequalities by helping to ensure everyone lives in good quality places that support quality of life.

The data reveals area-based differences, as the proportion rating their neighbourhood as a very good place to live increased significantly as deprivation declined. Of those living in the 20% most deprived areas of Scotland in 2019, 32% rated their neighbourhood as a very good place to live, rising to 77% for those living in the 20% least deprived areas. This is a similar trend to previous years ([National Indicator Performance](#), 2019).

People in the 15% most deprived areas were less likely to think the local crime rate had stayed the same or reduced in the past two years than those living elsewhere in Scotland (65% compared to 74%) ([National Indicator Performance](#), 2019).

In relation to access to greenspace at home Public Health Scotland recent analysis was [quoted](#) as showing that there is quite a differentiation between space (private outdoor space at home e.g. gardens or balconies) depending on the tenure. Hansard reported that only 3% of homeowners do not have access to open space in the house, whereas for private sector tenants it is 23% and for local authority tenants it is 19%.

People living in the most deprived areas are less likely to live within a 5 minute walk of their nearest greenspace than people in less deprived areas. This observation has been consistent over the time series the data has been collected.

Fairer Scotland Duty Assessment (FSDA)

Respondents living in the 15% most deprived areas of Scotland were more likely to agree or agree strongly that the quality of their local greenspace has reduced in the past 5 years (50% strongly agree/agree, compared to 40% of urban Scots) or if just use 'strongly agree' 26% compared to 18% ([Greenspace Use and Attitudes Survey, 2017](#)).

Research found that the quality of play areas was poorer in more deprived neighbourhoods, as compared to those in the least deprived areas. The 2016 Scottish Household Survey showed that most children had access to play areas in their neighbourhood, but that availability differed according to levels of deprivation within urban areas. Households within the 20% of most deprived urban areas said they had less access to a natural environment or wooded area in their neighbourhood, compared to the rest of urban areas. Parents living in the 20% most deprived urban areas were also much less likely to think that it was safe for children to travel alone to most play areas.^[4]

Research published by [Public Health Scotland](#) finds that 'Socio-economic inequalities in use of green and open spaces existed before lockdown. Lockdown did not reduce these and may have made them worse.' It also notes that users reported that green and open space benefited their mental health during lockdown. Individuals of higher social grade were more likely to report increases in use, and also greater benefits to their mental health.

The [Scottish Vacant and Derelict Land Survey 2019](#) (2020) found that 55% of people living in the most deprived decile in Scotland are estimated to live within 500 metres of derelict land, compared to 11% of people in the least deprived decile.

The [Scottish Household Survey Key Findings 2019](#) (2020) found that adults living in the 20 percent most deprived areas were more likely not to have not made any visits to the outdoors in the past 12 months (19 percent) compared to those in the 20 percent least deprived areas (four percent).

Although level of deprivation did not impact social isolation, as measured by the number of people meeting socially at least once a week, those living in the most deprived areas were almost twice as likely to experience feelings of loneliness as those living in the least deprived areas.

A higher proportion of people who live in remote rural areas either feel very or fairly strongly that they belong to their immediate neighbourhood than either people in accessible rural areas or the rest of Scotland. In remote rural areas over half of people feel very strongly that they belong to their immediate neighbourhood ([Rural Scotland Key Facts, 2015](#)).

Data shows that only rural areas of Scotland are not within a 15 minute drive time to key services. For example 84% of people in remote rural areas and 99% of people in accessible rural areas live within a 15 minute drive time to a GP compared to 100% of the population in the rest of Scotland. In general, a lower percentage of people in rural areas find key services convenient, when compared to the rest of Scotland. This is particularly noticeable for key services such as hospitals, dentists, chemists, public transport, banking services and cash machines ([Rural Scotland Key Facts, 2015](#)).

Fairer Scotland Duty Assessment (FSDA)

In terms of economic and employment in rural areas all indicators of economic activity are highest in rural Scotland. The economic activity rate (people employed or looking for work), employment rate (the number of people employed as a percentage of the total population of working age) and the rate of working age population that is either employed, in education or training are all higher in rural areas than in the rest of Scotland. A similar proportion of people living in accessible rural areas and in the rest of Scotland are employed in higher managerial and professional positions (12% and 10% respectively). The proportion is slightly lower at 8% in remote rural areas. A greater proportion of workers in remote rural areas (17%) are small employers or own account workers than in accessible rural areas (13%) or the rest of Scotland (7%). The lowest rate of business openings was seen in remote rural areas (9%), followed by accessible rural areas (12%) ([Rural Scotland Key Facts, 2015](#)).

Connectivity

Digital Connectivity

Adults in the most deprived areas and those with lower household income are less likely to use the internet or to have home internet access ([Covid and Inequalities Report](#)). In the 20% most deprived areas in Scotland, 82% of households had access to the internet, compared to 96% in the 20% least deprived areas.

Data also shows the availability of superfast broadband is much lower in rural areas than in the rest of Scotland ([Rural Scotland Key Facts, 2015](#)).

21% of adults in social housing did not use the internet (compared to only 5% in Private Rented Sector and 10% of owner occupiers) ([Scottish Household Survey, 2018](#)). Being older or disabled, living in a deprived area or living in social housing were risk factors for exclusion from access to digital services ([Is Scotland Fairer Report, 2018](#)).

Transport Connectivity

The Fairer Scotland Duty Assessment accompanying the National Transport Strategy 2 noted the following key information.

- Research undertaken by Sustrans from 2016 stated that over one million Scots live in areas that are at risk of transport poverty, defined as those who don't have access to essential services or work due to limited affordable transport options.
- Research published by the Joseph Rowntree Foundation found that poor service coverage, reliability, and or affordability of public transport discourage people in low income to commute to employment sites, reinforcing socio-economic disparities. This is compounded by the fact that poor service coverage is more likely in deprived communities.

There are links between poverty and ability to cycle. Household access to bikes increases with household income. 62% of households with an income of £50,000 or more have access to one or more bikes, compared to 20% of households with an income up to £10,000.

Bicycle access is higher in rural areas than urban areas. There are also links between household income and people walking just for pleasure or to keep fit. For those living in households with annual income up to £10,000, 58% walk one or more days per week. For those in households with more than £50,000 annual income the figure rises to 71%.

[Transport and Travel in Scotland 2019](#) (2020) noted that 68% of people travelled to work by car or van, 12% by walking and 10% by bus. However, this varied with income. Those in households with incomes under £15,000 were more likely to take the bus or walk than those on higher incomes. People from households with incomes over £50,000 were the most frequent car users.

Health and Wellbeing

Both mental and physical health are notably poorer in more deprived areas. In the most deprived areas in Scotland, 33% of adults lived with a limiting condition, while 15% of adults lived with a limiting condition in the least deprived areas. People living in the most deprived areas are also more likely to be in poor health and to have many long-term conditions. ([Scotland's People Annual Report](#), 2019)

[Long-term monitoring of health inequalities](#): January 2021 report noted that both males and females in the most deprived areas in Scotland are estimated to spend a lower proportion of their life in good health than those living in the least deprived areas.

For adults, 26% of adults in the most deprived areas were at a healthy weight, compared to 38% of those in the least deprived areas. For children, the trend was similar, with 62% of children in the most deprived areas at a healthy weight, compared to 76% of children living in the least deprived areas.

74% of adults in the least deprived areas met physical activity recommendations, compared with 54% of adults in the most deprived areas.

In 2019/2020, 84% of the population lived in households with high food security. This means that 16% of people lived in households with marginal, low or very low food security. People in poverty were less likely to experience high food security: just 60% of those in relative poverty, and 59% of those in absolute poverty lived in high food security households.

Food insecurity has consistently been more prevalent among adults living in low income households. In 2019, 23% of adults with household incomes in the bottom quintile (less than £14,444/year) reported experiencing food insecurity compared to 3% of adults with household incomes in the top quintile (more than £49,400/year). Prevalence of food insecurity has consistently been higher among adults living in the most deprived areas compared to those living in the least deprived areas.

Assessment Findings and Improvements

The Development Planning Regulations and Guidance have the potential to impact upon people across the whole of Scotland irrespective of their socio-economic status.

They have been drafted to help ensure people have opportunities to be meaningfully involved in plan making, and to provide a fairer, more inclusive and equalities based approach to planning the future. They seek to help advance equality, tackling spatial aspects of inequalities by promoting use of place-based approaches.

Regulations

Participation

As above, the evidence suggests people are keen to be involved in local decision-making and shaping their places, but that the extent to which people believed they can influence decisions were lower in the most deprived areas.

We wish to empower more people to shape their places.

The Scottish Government is aspiring to inspire people to pro-actively input to how their places should develop in the future and have influence in the decisions that impact on their lives.

There are significant and meaningful opportunities for people to engage in the preparation of LDPs.

Section 18(1)(d) of the Act requires a planning authority to consult key agencies and 'such persons who may be prescribed' on the proposed plan. Proposed plans will be of interest for a wide range of stakeholders and local authorities will have a good understanding of those relevant to their area. Statutory requirements in primary legislation for development plan schemes mean they must include a participation statement, and that they include information on whom the planning authority will consult in preparing the plan.

The 2019 Act strengthened this to require that in preparing the development plan scheme, the planning authority seek the views of the public at large as to the content of the participation statement. We expect this will include seeking views on who should be engaged at different stages, and on the best approach to involving people. The Scottish Government will be preparing statutory guidance on effective community engagement in the preparation of LDPs. We therefore do not propose to prescribe, in regulations, any further persons to be consulted on the proposed plan, but expect to say more in guidance.

Guidance

Overall Approach

The evidence shows people living in the most deprived areas and neighbourhoods are more exposed to environmental conditions and other factors that negatively affect health and access to opportunities – including those relating to transport,

access to green space, pollution effects, housing quality, fuel poverty, community participation, and social isolation.

Therefore, our future places and spaces need to contribute to improving equality and eliminating discrimination by addressing the environmental conditions and other factors that negatively affect health and access to employment opportunities – plus those relating to connectivity – both digital and transport, access to green space, pollution effects, housing quality, fuel poverty and community participation.

The guidance will highlight the Public Sector Equality Duty, which places a duty on public authorities to advance equality of opportunity. It will also set out the Fairer Scotland Duty places a legal responsibility on particular public bodies in Scotland to actively consider how they can reduce inequalities of outcome caused by socio-economic disadvantage, when making strategic decisions. It will note that evidence from impact assessments, including Equality, Fairer Scotland, and where applicable Island Communities Assessments can inform LDP evidence reports.

The guidance will also highlight there is an opportunity for LDPs to address community wealth building priorities by reflecting a people-centred approach to local economic development, addressing economic disadvantage and inequality, and providing added social value.

NPF4's spatial strategy sets out six overarching spatial principles for Scotland 2045, which should contribute to improving equality and eliminating discrimination. The guidance indicates these spatial principles should be used to guide the preparation of Regional Spatial Strategies, LDPs, and LPPs.

The guidance will set out that LDP spatial strategies approach should

- take account of the need to tackle geographical disparities in wealth and health, and reduce inequalities.
- aim to create vibrant, healthy and safe places and seeks to tackle health inequalities particularly in places experiencing the most disadvantage
- support transport options that focus on reducing inequalities and the need to travel unsustainably

The guidance will note Local Place Plans can support community aspirations on the big challenges for a future Scotland such as responding to the global climate emergency and tackling inequalities. It is vital that local people have the opportunity to engage meaningfully and have a positive influence in the future planning of development in their areas.

NPF4 sets out a cross-cutting outcome, and details of policy links in relation to a fair and inclusive planning system. This details that planning authorities should respect, protect and fulfil human rights, seek to eliminate discrimination and promote equality. This is supported by the guidance. We have also identified below a number of the key policies in NPF4, to be expanded upon in the guidance will help tackle inequalities in the broadest sense.

Sustainable Places

Climate Emergency

Evidence shows income level is a strong determinant for people's ability to respond to and recover from climate change impacts.

To achieve a net zero, nature-positive Scotland, we must rebalance our planning system so that climate change and nature recovery are the primary guiding principles for all our plans and all our decisions in the long-term public interest.

The guidance will indicate evidence reports should consider existing sources and scale of climate change emissions and the likelihood and severity of climate risks to the area. The guidance also indicate evidence reports should identify heat related climate risks for infrastructure, places, particular land uses, communities and biodiversity.

The guidance will stress that in developing the spatial strategy, significant consideration should be given to the global climate emergency. It will note the aim should be to manage the risk and avoid putting people at increased risk as a result of the strategy, and avoid non-adapted and mal-adapted development and create places that are flexible for future adaptations that may be necessary.

Brownfield, vacant and derelict Land and empty buildings

The SVDL Survey shows people living in the most deprived areas are more likely to live close to derelict land, than those in least deprived areas. The guidance will set out LDP spatial strategies should aim to help regenerate areas blighted by vacant and derelict land and buildings by prioritising development on these sites.

The reuse of vacant and derelict land and properties can contribute to climate change targets and support biodiversity, health and wellbeing improvements and resilient communities by providing much needed greenspace, growing spaces and other community benefits. The planning system should also prioritise the use of vacant and derelict land and properties including supporting temporary uses where proposals for permanent development are unlikely to be imminent. Reductions in the amount of vacant and derelict land can assist in the mitigation of its harmful effects on people's health and wellbeing.

Sustainable Transport

The 2016 Sustrans research stated over one million Scots live in areas at risk of transport poverty. Research also shows poor service coverage (more likely in deprived communities), reliability, and or affordability of public transport, discourages people in low income to commute to employment sites, reinforcing socio-economic disparities.

Scotland's transport system should contribute to the creation of great places through prioritising the need to reduce inequalities; take climate action; help deliver inclusive economic growth; and improve health and wellbeing. The planning system will support development that minimises the need for travel and encourage active travel.

The guidance will indicate an audit of the transport infrastructure, services and capacity of the area should be undertaken. It will note LDPs should implement and ensure development is in line with the sustainable travel and investment hierarchies. It will provide guidance on walking and cycling infrastructure, and transport interchanges, bus priority routes, and low / no car parking, and the efficient roll out of electric vehicles.

Liveable Places

Design, Quality and Place

SIMD data and mapping shows where there are concentrations of multiple deprivation, and there is also evidence of geographic differential impacts of EU exit (including vulnerability in rural and islands areas) – highlighting the need for place based approaches

Place is where people, locations and resources combine to create a sense of identity and purpose, and it is at the heart of addressing the needs and realising the full potential of communities. The development planning system should apply the Place Principle and ensure that a design-led approach is taken for future development which involves working with stakeholders and local communities to create liveable, sustainable places that improve the lives of people, support greater equity, and inclusive and sustainable economic growth and contribute to net-zero ambitions.

The guidance will note that evidence reports should be informed by population statistics and projections, and take account of existing data on socio-economic performance, and health and wellbeing, to support the development of place-based proposals. It will also indicate that using new development to improve existing places should be considered as a first priority in developing spatial strategies.

Local Living and 20 minute Neighbourhoods

Evidence reveals significantly fewer people living in the 20% most deprived areas of Scotland in 2019, rated their neighbourhood as a very good place to live, compared to those living in the 20% least deprived areas. The data also shows inequalities in access to transport, greenspace and quality play opportunities, and more food deserts within more deprived communities.

The guidance will help set out how development plans should support development that will contribute to the creation of walkable, liveable and thriving places that provide communities with local access to the wide range of local facilities and services that they need, including access to employment opportunities, health and care facilities and services, shopping, safe streets and places, childcare and education, affordable housing plus green networks, outdoor spaces for play, community gardens, culture, sport and recreation facilities.

There will also be separate guidance produced on Local Living and 20 minute neighbourhoods.

Quality Homes

The evidence shows living in poverty, or on a low income and with little or no wealth, restricts housing choices, presents affordability challenges and increases the likelihood of experiencing fuel poverty and the risks of homelessness; whilst affordable housing helps to tackle poverty and inequality.

The guidance will indicate planning authorities should have regard to the Local Housing Strategy (LHS) in preparing the evidence report. 'This will, in particular, provide relevant information relating to different tenures of affordable and market housing for an area. This should inform the process of setting the all-tenure Local Housing Land Requirement.'

The guidance will indicate 'A place based plan is expected to identify which allocations are located to help contribute to meeting specific needs including for: affordable housing, further and higher education, older people, disabled people, self-build and gypsy/travellers'. The guidance will provide further advice to planning authorities about provision of affordable housing.

Evidence recognises housing's important influence on health inequalities in Scotland, with key pathways through housing quality and fuel poverty. Good quality homes should be at the heart of great places and contribute to strengthening the health and wellbeing of Scotland's communities. To help tackle climate change, we will need more energy efficient, net zero emissions homes. This can also support a greener, fairer and more inclusive wellbeing economy and has the potential to help build community wealth and reduce fuel poverty.

Heat and Cooling

The fuel poverty strategy considers issues of social justice and the health impact of tackling fuel poverty, it has an objective for more energy efficient buildings and decarbonising heat supply.

NPF4 recognises that heat networks can help contribute to Scotland's net zero ambitions by using and storing heat from low or zero emissions sources, such as surplus or waste heat, heat from large scale heat pumps, particularly in conjunction with geothermal systems or bodies of water or clean hydrogen to provide zero emissions heat to homes. There is scope for this to reduce fuel poverty.

The guidance will indicate allocations and development opportunities should be informed by heat network zones and other strategic level zones, and take into account the area's Local Heat & Energy Efficiency Strategy and areas of heat network potential and any designated heat network zones.

Blue and Green Infrastructure, Play & Sport

Evidence shows open spaces, greenspace and play spaces offer benefits in terms of health and wellbeing. However, people who live in deprived areas are less likely to have access to greenspace and more likely to agree that the quality of their local greenspace has reduced in the past 5 years. The evidence also reveals the quality of play areas was poorer in more deprived neighbourhoods.

The guidance will indicate plans should prioritise actions in disadvantaged communities, to ensure the adequate provision of publicly accessible, good quality outdoor play opportunities for formal, informal and incidental play help to tackle inequality and improve health and wellbeing outcomes for children in such areas.

Health and Safety

Evidence shows mental and physical health are notably poorer in more deprived areas. Improving the health and wellbeing of the people of Scotland is one of the six high level outcomes for NPF4.

Places are important for physical and mental health and overall wellbeing. The places where children and young people grow up shape the opportunities that they have and influence the course of their life. The planning system should support development that reduces health inequalities and creates an environment that promotes active and healthier lifestyles.

The guidance will indicate to planning authorities that their spatial strategy should take account of the need to tackle geographical disparities in wealth and health, and reduce inequalities, including gender economic inequality, provide good quality paid work and fair opportunities for work. Plans should seek to distribute economic activity and development more equitably and prioritise areas locally where growth lags behind for new business and industry opportunities. Plans should aim to build on the lessons from initiatives on community wealth-building in order to boost local job creation by developing resilient people, communities and places

The guidance will make clear that reducing inequality is a significant action in addressing health. LDPs should prioritise investment in communities experiencing deprivation to help address the socio-economic-environmental challenges faced by those communities and link that to increased adaptation and resilience to the risks from climate change faced by those communities.

LDPs should aim to create vibrant, healthier and safe places and should seek to tackle health inequalities particularly in places which are experiencing the most disadvantage. Development proposals for, or including, space or facilities for local community food growing and allotments should be supported. The guidance sets out that plans should seek to tackle environmental health inequalities, including those associated with air pollution, impacts of climate change and access to quality greenspace.

Data shows prevalence of food insecurity has consistently been higher among adults living in the most deprived areas.

The guidance will also set indicate that plans should support lifelong eating well and healthy weight through supporting diversity in healthy, affordable local food and drink retail, local food growing and local food and drink manufacturing. Plans should take steps to increase food diversity and physical activity where significant issues are identified. Food deserts should be designed out and concentrations or clusters of outlets selling less nutritious foods, in particular for take-away purposes, should be avoided and not allowed to be created where they are within walking distance of schools.'

Digital Infrastructure

Evidence shows being older or disabled, living in a deprived area or living in social housing are risk factors for exclusion from access to digital services.

The Scottish Government wants to ensure that no areas are left behind by closing the digital divide. The planning system should continue to support the roll-out of digital infrastructure across all of Scotland, ensuring that policies recognise the importance of future-proofing infrastructure provision whilst addressing impacts on local communities and the environment.

Policies in LDPs should support the delivery of digital infrastructure, particularly in areas with gaps in connectivity and barriers to digital access.

The guidance will indicate that evidence reports could be informed by data on infrastructure capacity and planning investment including for digital and should identify where there are gaps in coverage to inform the facilitation of improvements in digital connectivity. The guidance will indicate this may be informed by community groups.

Productive Places

Business and Industry

The evidence recognises availability, access to and nature of employment is an important determinant of health inequalities within society.

Recognising the three drivers of poverty; 'pockets', 'prospects' and 'places', the NPF4 spatial strategy recognises that our future places will attract new investment, build business confidence, stimulate entrepreneurship and facilitate future ways of working – improving economic, social and environmental wellbeing. This will help Scotland to have a globally competitive, entrepreneurial, inclusive and sustainable economy, with thriving and innovative businesses, quality jobs and fair work for everyone.

We want to encourage development that supports the prosperity of key sectors, builds community wealth and creates fair work and good green jobs where they are most needed. This will support people's aspirations for good quality jobs and help reduce child poverty.

The guidance will indicate that evidence reports could include analysis of employment need, local poverty, disadvantage and inequality, to highlight where future business and industry development would provide most benefit.

The Scottish Government wants to see LDPs set out proposals to meet requirements for employment land, infrastructure and investment in a way which supports a greener, fairer and more inclusive wellbeing economy.

The guidance will provide advice on land and premises for business and employment, including that plans should encourage opportunities for home-working, live-work units, micro-businesses and community hubs. It notes that in the past industrial and business areas have tended to be located at a distance from

Fairer Scotland Duty Assessment (FSDA)

residential areas, but that as our economy continues to evolve, there may be scope for greater integration of work and living as inter-related land uses. This can help to tackle inequalities by providing more accessible, local job opportunities which reduce the need to travel. The guidance clearly sets out that spatial strategies and site allocations should factor this in.

City, town, local and commercial centres

The SIMD data shows that centres across Scotland experience deprivation.

The issues facing towns will be place specific. The guidance sets out the evidence report should be informed by town centre audits for each town centre to harness its strengths, support vitality and viability, tackle weaknesses and improve resilience. Local authorities should work with community planning partners, businesses and community groups as appropriate to prepare the town centre audit.

The guidance will indicate that plans may set out how centres can address any significant changes in their roles and functions over time, where change is supported by a town centre strategy. LDPs may reimagine town centres and respond to challenges and opportunities arising for them to support social, economic and climate priorities. The guidance will also highlight plans should identify opportunities or proposals to enhance town centres, based on the relevant strategy.

Rural Development

The evidence shows all indicators of economic activity are highest in rural Scotland. However remote rural areas, followed by accessible rural areas had the lowest rate of business openings.

The guidance will set out that plans spatial strategies should support the sustainability and growth of rural communities and economies, and support new development in remote rural and island areas, where it can help support community resilience and sustain fragile populations. It will set out that spatial strategies should support growth of the rural economy, by promoting economic activity, innovation, and diversification while ensuring that the distinctive character of the rural area, the service function of small towns and natural and historic environment assets and cultural heritage are safeguarded and enhanced.

Conclusion

The Development Planning regulations and guidance cover areas highlighted in this assessment. They aim to support the creation and delivery of people centred plans, and ensuring issues around inequalities are taken into account.

To identify any potential improvements, we undertook a full consultation on the proposed regulations and draft guidance. At the same time we invited views on the Fairer Scotland Duty Assessment which are outlined above.

These have informed our approach in finalising the regulations and guidance, and this Fairer Scotland Duty Assessment.

Fairer Scotland Duty Assessment (FSDA)

Sign Off

Name: Dr Fiona Simpson

Job title: Chief Planner

Island Communities Impact Assessment (ICIA)

ICIA Contents

<u>Introduction</u>	78
<u>The Islands (Scotland) Act 2018</u>	78
<u>Objectives and Intended Outcomes</u>	80
<u>Consultation & Engagement</u>	85
<u>Data</u>	88
<u>Assessment</u>	89
<u>Conclusion</u>	90

Introduction

This Island Communities Impact Assessment (ICIA) supports secondary legislation and guidance relating to changes made to local development planning through the Planning (Scotland) Act 2019, which amended the Town and Country Planning (Scotland) Act 1997. It covers both The Town and Country Planning (Development Planning) (Scotland) Regulations 2023 and the associated guidance on implementing legislative requirements and policy expectations. It considers the implications of the new system for island communities.

Local Development Plans (LDPs) set out how our local places will change into the future, including where development should and shouldn't happen. It is a legal requirement for planning authorities to prepare LDPs. They form part of the statutory 'development plan' and alongside the National Planning Framework (NPF), are the main basis for all decisions on planning applications. New style local development plans should be place-based, delivery-focused and people-centred.

There is strong support for a plan-led planning system in Scotland. Planning reform, including provisions of the 2019 Act, has sought to strengthen and simplify LDPs. We want a new approach to preparing plans that will result in new style plans that support the management and use of land in the long term public interest. We want to refocus plans on the outcomes that they will deliver for people and places, rather than the processes of preparing them. We want plans to be informed by consultation and collaboration so that they are relevant, accessible and interest people.

The Islands (Scotland) Act 2018

Scottish Ministers are required by the Islands (Scotland) Act 2018 to have regard to island communities in exercising their functions and in the development of legislation. An ICIA must be prepared where 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.

The [National Islands Plan](#) (December 2019) provides a framework for action in order to meaningfully improve outcomes for island communities. It is underpinned by four key values: fairness, integration, environmental protection (green) and inclusiveness. The plan contains 13 Strategic Objectives, many of which the local development planning regulations and guidance can contribute to achieving.

The Islands (Scotland) Act 2018 provides for a duty on the Scottish Ministers and other relevant public bodies that they must have regard to island communities in exercising their functions and in the development of legislation. The 2018 Act lists the following areas that are relevant considerations for islands and islands communities:

- Biodiversity
- Community empowerment
- Depopulation
- Digital connectivity
- Economic development

Islands Communities Impact Assessment (ICIA)

- Environmental protection
- Fuel poverty
- Health and wellbeing
- Land management
- Transport

The planning system has a role to play in the development and use of land in the long term public interest, including the future development of communities, and so has a relevance to each of the considerations listed above. The new style system of development plans aims to enable greater community participation in these issues within their local areas so has the potential to benefit island communities in this regard.

[National Planning Framework 4 \(NPF4\)](#) is a long term plan for Scotland that sets out where development and infrastructure is needed. It guides spatial development, sets out national planning policies, designates national developments and highlights regional spatial priorities. The spatial priorities in NPF4 include:

- rural revitalisation: we will encourage sustainable development in rural areas, recognising the need to grow and support urban and rural communities together.
- Just transition: encouraging people to shape their places
- local living: improve community health and wellbeing by ensuring people can easily access services, greenspace, learning work and leisure locally.

These priorities have a lot of cross over with the strategic objectives in the Islands Plan, particularly 1,2,3,4 and 6,7,8,9. The LDP guidance will offer advice on how to implement NPF4 policies on themes such as biodiversity, housing, transport and infrastructure first in the context of preparing their local development plan.

Objectives and Intended Outcomes

The Local Development Planning Regulations and Guidance are part of our wider work on planning reform and implementing the [Planning \(Scotland\) Act, 2019](#) (the 2019 Act). They should be viewed within the context of the overarching provisions on LDPs as set out in the [Town and Country Planning \(Scotland\) Act 1997, as amended](#) by the 2019 Act – which seeks to strengthen and simplify LDPs.

We want this new approach through the regulations and guidance to result in new style plans which support the management and use of land in the long-term public interest.

The regulations and guidance will apply across Scotland as a whole. The regulations provide detail on the procedural framework for LDPs and apply consistently across Scotland. The guidance will indicate the aims for new-style plans, guidance on the process of preparing local development plans, and thematic guidance on the evidence to inform plans, and their content. The guidance supports consistency whilst providing for flexibility for local circumstances, including island locations. We want this new approach to LDPs to result in new style plans which support the management and use of land in the long term public interest.

Key changes in the new process and points of relevance to island communities are set out below, and reflect earlier points raised through previous consultation and engagement on the [Planning Bill](#), which included an islands proofing exercise.

Aims for new-style plans

The guidance makes clear that LDPs should consider the ambitions and outcomes for an area, looking 20 years ahead. Plans should be developed through collaboration and based on robust evidence so that they are deliverable. The guidance sets out the aims that LDPs should be:

- **Place-based**, with the inclusion of a clear spatial strategy reflected more in a collection of maps, site briefs and masterplans than in written text and policy. They should support the place principle, taking a joined up, collaborative approach to the place's assets and services. Plans should be relevant and accessible to the people with an interest in that place. They should be prepared in a different way, look different and be used differently to before.
- **People Centred** - preparation of an LDP should be collaborative to best meet the needs and aspirations of the different people who have an interest in a place and should be prepared with the involvement of local people. The guidance indicates to achieve the intended outcomes for people, a wide range of stakeholders will need to play a role.
- **Delivery focussed** - LDPs should support delivery of development that meets people's needs and aspirations of a place and the long term public interest. To be deliverable, a plan must be clear about what is sustainable, desirable and achievable. The LDP should support decisions to invest in a place, identifying priorities and making strong links between these and the Delivery Programme. The guidance promotes an Infrastructure First approach to development planning

Islands Communities Impact Assessment (ICIA)

which means that infrastructure considerations should be an integral part of the plan preparation process.

Evidence Reports and assessment of evidence reports (Gate Check)

The Act now requires (section 16B(1)) that before preparing a proposed local development plan the planning authority must prepare an evidence report. The evidence report is a benefit for island authorities because it promotes robust evidence based policy making. It can ensure island-specific evidence is inputted at the earliest point in the plan making process, embedding flexibility for LDPs to respond to local issues and characteristics.

Section 16B(2) of the Act sets out those whose views the planning authority are to seek and have regard to in preparing an evidence report, this includes key agencies, children and young people, the public at large. The regulations define 'Gypsies and Travellers' in relation to purposes for engagement on the evidence report. It will be important for authorities to consider who needs to be included.

The regulations do not prescribe required set types of data / information to be included in the evidence report allowing flexibility for island authorities to consider what data is required for their areas, whilst taking account of their resources. Whilst a template is included in the guidance for the evidence report it can be tailored to the relevant matters for an area. The guidance will include details of evidence planning authorities may wish to reflect in their evidence report, including in relation to natural environment and biodiversity, transport, digital, infrastructure, rural homes, rural development and retail, amongst other issues which may be relevant to island communities.

The regulations also set out requirements in relation to the assessment of the evidence report, ('the gate check"). The gate check will assess whether the evidence report contains sufficient information to enable a planning authority to prepare a proposed plan.

During progress of the Planning Bill views were set out on the role of the gate check process in justifying and agreeing departures from national policy. It was considered beneficial to design the gate check so that a different approach could be tailored to island specific issues. We recognise there is significant variation across Scotland of specific local circumstances, including the islands, therefore the provisions for the gate check reflect this and provide for flexibility, in that it will be for the appointed person to determine how the assessment is carried out appropriate to the matters being considered. The Regulations allow the appointed person to request from any person that representations are made or information provided as part of the gate check.

Information and considerations

The Regulations set out the information and considerations that a planning authority are to have regard to in preparing a LDP.

Islands Communities Impact Assessment (ICIA)

It had been recommended, as part of the engagement on the Planning Bill that further consideration be given to links between marine and terrestrial planning. Following the consultation on the proposed Regulations and guidance, the prescribed information and considerations have been added to, so that in preparing LDPs the planning authority are to also have regard to: the national and any regional marine plan; any flood risk management plan, and any local flood risk management plan. These may contain coastal, marine and flooding information relevant to island communities.

Publication of the proposed development plan

In terms of access to information and details of the proposed LDP, the regulations include requirements for publishing a notice in a local newspaper circulating in the area and on the internet, sending notice to identified stakeholders, making a copy available for inspection at the planning authority offices and libraries, and publishing it on the internet. During the Planning Bill authorities called for newspaper advertising requirements to be removed given the significant costs they generate. However, across Scotland, including island communities, local newspapers remain a relevant and additional route to raise awareness, particularly amongst those with limited digital access or digital skills. Whilst the use of online publication will also allow access to information without the need to travel.

In terms of 'getting more people involved in planning', it was noted through the Bill stages that many island communities are already very engaged but that it can still be difficult to involve people at the development plan stage. The guidance will encourage planning authorities to promote their LDP and opportunities for engagement through social media and digital channels to reach a wider audience and make it easier for people to engage with the plan process. This has the potential to be of particular benefit to those living and working in remote / dispersed communities such as those on Islands where it may be more challenging to get to a community in-person events or to visit an office or library to view copies of the proposed plan.

Key agency – Crofting Commission

The Regulations define bodies to be specified as Key Agencies for purposes linked to LDPs. The list of key agencies has been amended to reflect the correct name of the 'Crofting Commission'.

The regulations were also amended to mean that as well as the Crofting Commission being a key agency in relation to the crofting counties²⁷ (ie established areas) that they will also apply to the other areas the Crofting Commission has an interest in i.e. under section 3A(1)(b) of the [Crofters \(Scotland\) Act 1993](#) (i.e. in relation to other areas designated for crofting). This will ensure the full legal breadth of the Crofting Commission's interests are covered. It will mean that the islands of Arran (including Holy Island and Pladda) Great Cumbrae and Little

²⁷ Section 61(1) of the 1993 Act defines "crofting counties" as comprising the former counties of Argyll, Caithness, Inverness, Orkney, Ross and Cromarty, Sutherland and Zetland. The local government area of Highland includes parts of the former counties of Argyll, Caithness, Inverness, Ross and Cromarty and Sutherland.

Islands Communities Impact Assessment (ICIA)

Cumrae, as well as the local Government areas of Moray and Argyll and Bute, and the parishes of Kingarth, North Bute and Rothsay are covered. This is a positive step towards ensuring that all island crofting areas are represented through the Crofting Commission's interests and duty in the plan making process.

Health, climate change, community planning

Consideration was given to considering additions to regulations to reflect prominent issues in planning such as health, climate change, community planning. These issues are clearly of importance across Scotland but particularly in island communities. The primary legislation already requires that in preparing a LDP the planning authority take into account any local outcomes improvement plan and any registered local place plan. This reflects the importance of community planning in the new development plan system. The Act also requires that LDP spatial strategies take account of the health needs of the population of the district and the likely effects of development on those health needs. In terms of climate change, as set out above (para 21) the information and considerations in the regulations have been added to include coastal, marine and flooding information.

LDP Guidance supports NPF4

The Act requires LDPs to take into account the National Planning Framework. NPF4 covers a range of planning policy topics, the LDP Guidance will offer advice on how these can be implemented through key stages in plan making around evidence reports, proposed plans and delivery.

- In relation to 20 minute neighbourhoods, – there is a recognition that there's need for a flexibility in the application of the concept in rural areas.
- Support for Digital infrastructure and recognition of the interplay between digital connectivity and access to services. This has a role in supporting and sustaining island communities.
- Policy in NPF4 and the LDP guidance has been strengthened in relation to Community wealth building.
- In relation to transport – there's a recognition that in rural and island areas low emissions vehicles will play an important role where sustainable modes have been deemed unfeasible.

LDP Guidance in support of the Act's requirements around Self-Build Lists

The 2019 Act (section 16E) provides an opportunity for people to register with the planning authority their interest in acquiring land for self-build. Self-build homes can constitute a higher proportion of housing development in more rural / island areas compared to other areas with more mainstream developers. The new self-build lists will provide evidence on demand for sites.

The guidance will set out considerations that planning authorities may wish to consider in implementing their new duties to prepare and maintain a list of persons who have registered interest with the authority with the intention of acquiring land in the authority's area for self-build housing (section 16E(1)).

Islands Communities Impact Assessment (ICIA)

Planning authorities are to have regard to the list in preparing their LDP. This could contribute to increased opportunities for people to build their own home and stay on the islands, and retain population supporting local services and employment.

Resources & Timescales

During the Bill, timescales for plan preparation were noted and that the logistics of site visits and the small size of island authority planning teams may have an impact.

Section 20B of the Act covers development plan schemes (DPSs). These are a document setting out the authority's programme for preparing and reviewing their LDPs. The regulations require DPSs to set out proposed timings for various stages in LDP plan preparation, by specifying the proposed year and financial quarter. Set timescales for the different stages of plan preparation have not been set in the regulations. This allows planning authorities to set out realistic timescales for their LDPs, recognising there may be varying levels of data required to be collected or issues to be considered in different plans.

Amendments to LDPs

Reference was made in comments during the Bill to allowing island authorities to define their own triggers for plan updates, to allow them to respond to local issues and pressures. The 2019 Act introduced the ability to amend LDPs through regulations. However, the most recent consultation on development planning indicated this will be considered once the new development planning system is in place. The focus is on getting the new system up and running, allowing new LDPs to be put in place, before considering procedures for amending plans.

Consultation & Engagement

Island communities have been considered and involved since the earliest stages of the wider planning transformation programme including targeted engagement as part of the NPF4 and LDP consultation process. Details of those consultations are listed below.

Planning Bill

Previous consultation and engagement on the Planning Bill included an island proofing exercise undertaken through a collaborative workshop, held on 29 September 2017. It informed the Island Communities Impact Assessment, which was updated following Stage 2 of the Planning (Scotland) Bill. That assessment indicated the main theme from discussions was the need to allow flexibility for the islands – acknowledging that their needs were very different to that of towns, cities and other rural areas.

A number of comments in relation to the Planning Bill in relation to island communities had relevance to LDPs. These earlier comments were taken into account in developing the draft regulations and guidance, as highlighted in the section on 'Objectives and Intended Outcomes' above.

NPF4 consultation

Various rounds of [consultation took place as part of the preparation of the National Planning Framework 4](#) (NPF4). The issues raised in consultation responses were wide ranging, and many crossed over into being about the local development plan process.

The Call for Ideas included a Scotland-wide Roadshow. Events were planned for Bute, Orkney, Shetland mainland and Stornoway in February / March 2020. Due to the impact of the COVID-19 pandemic, the events in Shetland and Stornoway were unfortunately cancelled. In response to an individual request, a meeting was also held on Skye to discuss accessibility issues. In the drafting of NPF4, there was a call for the Scottish Government to continue to take the unique character and setting of island authorities into consideration, including by 'islands proofing' NPF4.

The Call for Ideas highlighted a number of policy areas where Island communities are facing unique challenges, including issues around housing, population decline, coastal planning.

Some more points from the NPF4 'Call for Ideas' consultation [Analysis of responses](#) with relevance to Development Planning are set out below:

- The need for a flexible approach to housing in rural areas, e.g. the potential to diverge from affordable housing targets if appropriate. (p. 48)
- The importance of the provision of high quality small scale affordable rural housing in the right locations to encourage rural repopulation.(p49)
- The HNDA approach should be tailored to rural communities. (p52)
- Allowing a specific rural approach as part of 'Island – proofing' NPF4. (p109)

Islands Communities Impact Assessment (ICIA)

- Coastal planning should also be island specific, especially in small islands where coasts should be considered in the context of the Island as a whole. (p122)
- A more flexible approach to sustainable transport in rural areas, including low emissions vehicles. (p173)

The [Analysis Report](#) of the draft NPF4 consultation found that: ‘Some respondents made specific comments on applying the policy to rural, highland and islands settings. It was observed that the distinctive socio-economic contexts and particular market characteristics of these areas include increased social enterprise, under-employment, and a plurality of employment that requires a flexible, responsive approach to development, taking account of local context and need. (p17)’

This need for local flexibility for rural areas was noted and included in the final version of NPF4.

Local Development Planning development of Regulations and Guidance

To support the Transforming Planning in Practice programme, a series of Working Groups were established, this included a [Development Planning Working Group](#). It was divided into subgroups to consider:

- scope and content of future LDPs,
- procedures for preparing LDPS, and
- the detail of the Evidence Report & Gate Check.

Members of the sub-groups generally represented organisations with a Scotland wide remit. Heads of Planning Scotland (HoPS) were asked to nominate a representative for each sub-group however none of these were from island authorities. The three subgroups met in the Autumn of 2020 and draft outputs were provided at the end of 2020. Final outputs were presented at a meeting of the subgroups in February 2021. These outputs have been used to inform the preparation of the regulations and guidance.

A public consultation on the Scottish Government's [proposals on secondary legislative requirements in draft regulations and guidance on Local Development Planning](#) ran from 17 December 2022 – 31 March 2023, allowing around 15 weeks for comments.

The consultation comprised 4 parts:

- Part A, the Introduction;
- Part B, the Proposals for regulations, including draft regulations;
- Part C, Draft Guidance (covering both procedural aspects and guidance on implementing thematic national planning policy through local development plans); and
- Part D, Interim Impact Assessments.

We asked 32 consultation questions. These sought views on our proposed approach of keeping regulations to the minimum necessary, around detailed wording aspects of the draft regulations, the interim impact assessments and pre-screenings

Islands Communities Impact Assessment (ICIA)

and on the draft guidance. The introduction to the consultation on the LDP regulation and guidance consultation highlighted the partial ICIA and asked for views on the content, as well as for any information that would assist in finalising the assessment.

An [Independent analysis of the consultation responses](#) was published in November 2022.

87 responses were received in total, 34.5 % were from Planning Authorities including Island authorities such as: Comhairle nan Eilean Siar, Shetland Islands, Orkney Islands and Argyll and Bute and 10.3% communities and individuals, including the Association for the Protection of Rural Scotland.

This consultation also indicated a separate consultation would be carried out on the meaning of 'Gypsies and Travellers' to be specified in regulations for the specific purposes of section 16B of the Town and Country Planning (Scotland) Act (1997). This was to enable targeted involvement of Gypsy and Traveller communities and for the explanation of the specific matters associated with the requirement to be set out. Comhairle Nan Eilean Siar Council responded highlighting that where there is no established Gypsy or Traveller community currently present during the preparation of the Plan (as has been the case historically in the Outer Hebrides) it has not been a requirement to take such accommodation needs into account.

The separate [consultation on the meaning of 'Gypsies and Travellers'](#) was carried out between December 2022 and February 2023. Respondents included Argyll and Bute Council and Highland Council who welcomed the idea of strong working relations between Gypsies and Travellers and local authorities, and emphasised the importance of an accurate and comprehensive definition to allow this.

A roundtable took place in June 2022 which considered the new statutory duty on planning authorities to prepare and maintain a list of persons who have registered interest with the authority with the intention of acquiring land in the authority's area for self-build housing and to have regard to this list in preparing their LDP. The roundtable included a representative from an island authority. The roundtable will inform the guidance's content on self-build lists.

Data

Some additional data sources emerged from the development planning consultation. The following information was presented by an Island authority as part of the consultation:

- [Rural Research to 2050](#)

This research was commissioned to inform preparation of the next version of NPF4. It identified the 'live-ability' of rural areas as a key challenge. This was particularly seen as being the case in Remote and Sparsely Populated areas. The lack of access to services in many rural areas can increase the cost of living and also cause disadvantage by not allowing people to participate fully in society. In comparison to those living in urban areas, rural communities can have greater responsibility placed on them to address their service challenges themselves, and this can result in inequalities because communities have different capacities to respond. The severity and nature of the challenges varies from one type of rural area to another. For example, 91% of people in remote rural areas live within a 15 minute drive time to a GP, compared with 99% in accessible rural areas and 100% of the population in the rest of Scotland. 58% of people in remote areas live within a 15 minute drive time to a secondary school, compared with 92% in accessible areas and 100% in the rest of Scotland.

This is noted. Improving access to health and community is a strategic priority revised NPF4, which will be embedded in the new style of LDPs.

- [The National Islands Plan Survey Final Report \(2021\):](#)

96% of island households have access to the internet from home. Older residents, aged 66 and over, report slightly but significantly lower levels of access than other age groups, at 92%. 65% of island residents agree that their internet connection at home is fast enough to do what they want online.

This is noted, and it is emphasised that both digital and paper promotion of the plan is supported in the new style plan system. There is also an effort to promote digital connectivity overall in Island areas and a recognition of the interplay between digital connectivity and access to services. This has a role in supporting and sustaining Island communities.

Island residents generally perceive that they have little influence over decisions made by local and national organisations, and more influence over community organisations and community councils, particularly in the Outer Isles of Orkney and Shetland, where around half of residents feel they can influence decisions made by their community council. 42% of younger people (aged 18 to 35) compared to 30% of older people (aged 66 and over) report that they can influence decisions made by community organisations such as Development Trusts and community groups. Young People and the Highlands and Islands (2018): levels of community participation varied by geography, with the highest levels reported by young people in Orkney (81%), Shetland (72%) and the Outer Hebrides (70%).

Islands Communities Impact Assessment (ICIA)

This is noted and the evidence supports the engagement of community councils in the plan preparation process that the new system put in place.

The LDP guidance will enable islands to develop approaches which are specific to them and not simply classified alongside 'remote rural'. This aligns with recommendations in the SG Rural planning to 2050 (2020) Recommendations document.

Assessment

The assessment process requires that the Scottish Government must determine whether in its 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).

The regulations are necessary to provide additional detail to the requirements set out in primary legislation. We consider there to be benefit in working to the principle that regulations are kept to the minimum necessary, and that much of the detail of Scottish Ministers' expectations for implementation of the 2019 Act should be set out in guidance. This provides maximum flexibility for all authorities, including the islands.

We consider there to be no adverse effect for the island communities on the definition of 'Gypsies and Travellers' for the specific purposes of section 16B of the Town and Country Planning (Scotland) Act (1997) as Local Authorities are only required to seek views of Gypsies and Travellers where they are present in their area. Consultation engagement indicates that the presence of these communities in island community areas are minimal.

It is considered that the regulations and guidance will not have a significant negative impact on island communities. The responses to the consultation have been noted and responded to in the sections above. It is not considered that any of these raises issues that will have a significant impact on island communities.

In fact, there are a number of areas where particular benefits were noted for Island communities.

The new provisions and guidance on evidence reports in particular can ensure island-specific evidence is inputted at the earliest point in the plan making process, embedding flexibility for LDPs to respond to local issues and characteristics.

These benefits also includes the flexibility for island areas such as: application of the 20 minute neighbourhood principle; and the sustainable travel hierarchy; approaches to housing to reflect market circumstances and delivery approaches; network of centres; coastal impacts; and the active promotion of supporting community resilience for living and working in the islands.

The consultation methods are also well suited to island communities including online as well as newspaper promotion of proposed plan engagement. In terms of engagement [Planning Advice Note 3/2010 on Community Engagement](#) already sets

Islands Communities Impact Assessment (ICIA)

out that the needs of minority groups should be accommodated where possible, including the provision of information in alternative languages. This could be a consideration for planning authorities covering areas where the Gaelic language is used. The LDP guidance will support the principles of PAN 3/2010.

The guidance will also highlight the need for Island Communities Impact Assessment of plans and the availability of the [guidance and toolkit](#).

It is considered that much of the evidence that came forward was at a finer grained detail than the regulations and guidance require. One Island planning authority felt that a full ICIA should have been consulted on. However, a full ICIA was not possible at that stage given that the project was still in the early stages and

Conclusion

The provisions, as noted above, offer flexibility for local circumstances including island communities and are not likely to have an impact that is significantly different from the rest of the country.

The new place-based local development plan system will enable tailoring specific to island circumstances / local communities and this is likely to have benefits for Island communities in terms of increased flexibility to tailor plans to local circumstances.

Views were sought on the potential impacts on Island communities through the consultation process and we have responded to the responses received accordingly. We do not envisage that the wider changes proposed will have significant, or different effects on island communities.

Planning, Architecture and Regeneration Division
Scottish Government

March 2023

Strategic Environmental Assessment (SEA)

Contents

<u>Pre-Screening Opinion</u>	92
<u>Public Consultation</u>	92
<u>Conclusion</u>	93

Strategic Environmental Assessment

Pre-Screening Opinion

The consultation on the Development Planning Regulations and Guidance, was accompanied by Interim Impact Assessments, part of which comprised:

- an [SEA pre-screening document](#) for the Regulations and
- an SEA screening report for the Guidance.

Both are recorded on the [SEA Database](#).

The pre-screening sets out the Scottish Government's opinion that

“As the 2019 Act was subject to SEA the environmental principles would have been considered within this assessment. As the new Regulations have no or minimal environmental effects in their own right it is our view the original assessment ensures the principles are imbedded in the proposed regulations and draft guidance.”

The screening report was submitted to the SEA Gateway on 23 December 2021 as per section 9(3) of the Environmental Assessment (Scotland) Act 2005 and responses were received from the Consultation Authorities confirming that they all agreed with the conclusions of the screening report that the proposed guidance is unlikely to have significant environmental effects.

The screening determination confirms that the Scottish Government has determined, using the criteria set out in Schedule 2 of the Environmental Assessment (Scotland) Act 2005, that the Local Development Planning guidance is unlikely to have significant environmental effects. As the Consultation Authorities agree with this view, the Scottish Government has concluded that a Strategic Environmental Assessment is not required.

A copy of the determination advert has been placed in the Herald and Edinburgh Gazette newspapers.

Public Consultation

The consultation specifically invited views on the SEA screening, and asked that if respondents considered that a full assessments was required, to suggest any information sources that could help inform the assessment.

In response to those questions, there was agreement with the approach taken and consensus between planning authorities, professional and representative bodies and the energy sector that the principles in the detailed regulations have already been established and considered by the assessments of the Planning Act (2019).

The [independent analysis of the consultation responses](#) notes that most respondents had no view or were content with the SEA Screening Report.

It was noted by respondents that as the Planning (Scotland) Act 2019 was subject to SEA, and the primary legislation included the principles of what was to be contained within the new LDP, the environmental impact of the package of proposed improvements to the planning system has already been determined. It was further noted that any additional level of detail within the regulations has already been

Strategic Environmental Assessment (SEA)

established by the assessment of the Act, and so would have no or minimal environmental effects beyond those that were already established by the SEA of the 2019 Act.

Conclusion

As such no further SEA assessment work has been undertaken in relation to the regulations and guidance.