Historic Environment Scotland Bill
Scottish Government Debate on Thursday 19 June 2014

Briefing from the Society of Antiquaries of Scotland (www.socantscot.org)

The Society welcomes the forthcoming debate in the Scottish Parliament on Stage 1 of the Historic Environment Scotland Bill. As the senior independent heritage body in Scotland we are keen that the creation of a new heritage body with NDPB status to protect, understand and promote Scotland’s rich heritage is a positive development not only for Scotland’s people, but for people from around the world. We offer the following thoughts for the debate.

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Local Authorities
Relationships with Local Authorities will continue to be critical in achieving effective management and promotion of Scotland’s historic environment. There should be an explicit recognition of the advisory and supportive relationship between HES and Local Authorities, in particular decision-making around planning, in Section 11 of the Bill in addition to providing advice to Scottish Ministers.

The Society advocates that this Bill takes the opportunity (in Part 6) to include a provision in legislation to ensure that Local Authorities have access, and take due regard of, appropriate information and professional advice on the local historic environment in exercising their duties. With the publication of Scotland’s Historic Environment Data (SHED) strategy, the diversity of possible models of service provision already at play in Scotland, and the closer connections between local and national government this is not a burden but a measure to support and strengthen the management and protection of Scotland’s unique historic environment. CoSLA in it’s written evidence recognised the need for this advice.

Skills
There should be explicit reference to maintaining and developing historic environment skills (including “traditional skills”) and capacity building within the sector. The Society considers such skills (where they apply to the historic environment) are different to the concept of “learning about, and educating others about, the historic environment” mentioned in Part 1, 2(2)(c), and are also not explicitly covered by Part 1, 2(2)(d) or (e), or indeed aspects of Part 1, 2(5). Such skills are identified as a priority in the Historic Environment Strategy for Scotland, and reports from both the Institute for Historic Building Conservation and Institute for Archaeologists indicate they are under threat.

Delegation of Ministerial functions
Sections 3 and 7 allow the delegation of functions relating to the management of Properties in Care and their collections not only to HES, but ‘any other person Ministers consider appropriate’. The Society seeks reassurance, perhaps through tighter wording in the Bill, or in the Policy Memorandum, that it is not the intention of Ministers to allow, for example, the future delegation of responsibility for only profit-making assets to any other organisations or persons, while leaving Historic Environment Scotland with non-profit making assets, which could pose a serious financial liability.
It would also be helpful to have some detail as to the sort of organisations or persons Ministers expect they may successfully delegate responsibility to in the future, if not Historic Environment Scotland or its successor. For example, many Local Authorities have a process for assessing whether a community organisation has the capability and sustainability to purchase, lease or manage one of its properties. We expect that Ministers would transparently consult and place on record a similar process with high thresholds to ensure the effective management of what are after all considered many of Scotland’s most iconic and important heritage assets.

**Part 6 relating to Further Modifications in Relation to the Historic Environment**

While unnecessary to set up HES, the Society supports these provisions, especially those for a local enquiry process. In a similar spirit, the Society advocates that this Bill should take the opportunity to include a provision in legislation to ensure that Local Authorities have access, and take due regard of, appropriate information and professional advice on the local historic environment in exercising their duties.

**Definition**

While recognising the advice of the Committee, the Society still considers that a definition of historic environment should be included in the Bill; we recognise that definitions change over time, but the current definition is suitably flexible and meaningful as well as being collaboratively crafted so as to stand the test of time. The inclusion of such a definition would help address the inevitable queries regarding the name of the organisation and the Bill itself, while also providing a very useful and powerful tool for ensuring the legitimacy of historic environment concerns in broader collaborative and cross-cutting policy and management discussions. Ministers will be aware of the precedent in the 1991 Natural Heritage (Scotland) Act and a legal definition would help those advocating on behalf of the historic environment, including HES itself, as well as enabling those using the Bill to understand its scope. The absence of a definition, allied to the broad nature of the proposed general functions, will make assessment of outcomes difficult, while also leading to confusion and potential future conflict over interpretation of commitments.

**Transparency**

The creation of HES will only be successful if it operates with improved transparency. The Policy Memorandum makes clear the expectation that HES will publish all consent applications and decisions, and details of Ministerial authorisations and grant decisions. However, this is a vital aspect of a successful merged organisation and such an important area that this policy intention ought to be articulated in the main text of the Bill, perhaps as one of the requirements for the Corporate Plan in Section 8(2).

It would also be useful to have a commitment to publishing criteria for grant schemes and also demand for grants – to understand the level of demand for grant in relation to supply. These wider aspects could be published as part of regular reporting by HES.

**Our Place in Time – the Historic Environment Strategy for Scotland**

The Society is supportive of the Strategy and its Vision and aims; indeed it would be beneficial, as noted above, to place the definition of historic environment as published in the Strategy into the Bill. While initially it appears that Scottish Government will service the governance structure of the Strategy, it may be that future hosting and support are provided cyclically by other organisations in the historic environment and wider sector, supported by
grants where required. This would underline and help foster the collaborative nature of the Strategy.

Measurement of success and failure is a critical aspect of the Strategy, and the Society is ready to support the current workgroup considering these aspects. However, we would advise that the adoption of a framework is not prescriptive, and it should allow flexibility for development and change as required, when it is clear that certain approaches may work better than others, and we get better at providing information and ideas. These measurements should feed into improved national performance indicators.

The co-produced Strategy allows an organisation such as the Society to promote its locus in the wider historic environment, and encourages potential action in areas that the Society may not have previously considered; it allows a more strategic approach to be adopted by all those operating in the sector. It will also allow the sector to collaborate more energetically towards delivering the agreed Vision.

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