

Citizen Participation and Public Petitions Committee
Room T3.40
The Scottish Parliament
Edinburgh
EH99 1SP

4 November 2021

Dear Alanis

Consideration of Petition PE1885: Make offering Community Shared Ownership mandatory for all windfarm development planning proposals

I am writing in response to your letter of 12 October 2021 asking whether *"Local Energy Scotland has any suggestions for planning based policy that could provide incentives for developers to offer community shared ownership"*.

Local Energy Scotland delivers the Scottish Government's Community and Renewable Energy Scheme (CARES) and is a consortium made up of Energy Saving Trust, Changeworks, The Energy Agency, SCARF and The Wise Group.

Energy Saving Trust is the lead partner in the Local Energy Scotland Consortium, and as such I am writing to you in my capacity as a manager at Energy Saving Trust and the views reflected in our response to your question are those of Energy Saving Trust.

Our views are outlined in the attached response. Thank you for providing us with the opportunity to provide these. Please do not hesitate to get in touch if you have any questions, would like any further information or if I can be of any further assistance.

Yours sincerely

Chris Morris



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Consideration of Petition PE1885: Make offering Community Shared Ownership mandatory for all windfarm development planning proposals

Response from Energy Saving Trust

1.0 Introduction

1.1 Community shared ownership (CSO) is enshrined in the Scottish Energy Strategy (2017) and the subsequent Good Practice Principles (GPP) (revised 2019).

1.2 Scottish Government's ambition was to ensure that, by 2020, at least half of all newly consented renewable energy projects would have an element of CSO.

1.3 The Scottish Government's ambition for CSO has recently been reaffirmed and reinforced in the current (28/10/21 – 21/01/22) [Onshore wind - policy statement refresh 2021: consultative draft - gov.scot \(www.gov.scot\)](#) as follows:

"We also continue to encourage the renewables industry to consider, explore and offer shared ownership opportunities as standard on all new renewable energy projects including repowering and extensions to existing projects."

1.4 CSO is currently a voluntary offering from renewable energy developers to communities in Scotland.

1.5 The petition that the Committee is currently considering is seeking to make offering CSO mandatory for all windfarm development planning proposals.

2.0 Planning

2.1 The Planning System section of the GPP notes that:

"The financial benefits arising to owners from ownership of any development is not a material consideration in determining the acceptability of the development in planning terms. While financial considerations can be relevant to a planning decision something which is funded from the development or otherwise offered by the renewable energy business will not, by virtue only of that fact, be sufficiently connected to the proposed development to be a material consideration."

2.2 It goes on to say:

“A planning authority should not require a renewable energy business to enter into shared ownership through a condition of planning permission, or legal agreement associated with the planning permission.”

2.3 In short, CSO isn't currently a material consideration in determining whether or not a development is acceptable in planning terms.

3.0 Energy

3.1 It has been suggested that it might be possible to make CSO mandatory for some projects through the UK Government's Contracts for Difference (CfD) scheme.

3.2 The UK's Government's in 2020 consultation on proposed amendments to the CfD scheme stated that delivering benefits to local communities was to be supported and specifically asked *“How can the government better ensure that the local impacts and benefits of renewable energy developments are taken into account across the whole of Great Britain?”*. In our response to this consultation, we noted that because of the competitive nature of CfD bidding rounds CSO (as well as community benefit fund (CFB)) opportunities could be threatened by bidders cutting costs to try to win CfD contracts. We went on to recommend that CSO and CBF should be protected in the bidding process by making them mandatory. One renewable energy business has since indicated that an incentive to offer CSO rather than a penalty for not offering CSO would be more positive and preferable for them. It might be possible to do this in the form of additional points in the CfD evaluation process. We're currently awaiting further consultation promised specifically on community benefits which should deal with this issue.

4.0 Other

4.1 Another way that it might be possible for CSO to be made mandatory has been suggested by one of the community groups that we are currently working with under the Local Energy Scotland Programme. The following text comes directly from contact that we have had with this group. Please note that it is out-with our expertise to comment on the Scottish Government's legal competence in these areas.

“Mandating CSO in Onshore Windfarms can be seen as a devolved power since it initiates a major economic development - one of the areas specifically passed to the Scottish Government. Furthermore, the Scottish Government has the power to raise new land taxes on any transactions involving interests in land, (Part 4A Chapter 3 of the Scotland Act) - Land leases that wind farm developers take out with the land owners (often on a rental basis) fall under this type of transaction and so the Scottish Government could raise

a new 'tax' - one which requires all developers who don't own the land to offer and complete a 15% CSO with the local community. This would ensure the Scottish Government meets its 2030 Community Owned Target of 2GW of Renewable Energy.”

5.0 Forest and Land Scotland (FLS)

5.1 The National Forest Estate in Scotland is being offered to renewable energy businesses to develop projects and this includes obligations to offer CSO.

5.2 Some renewable energy businesses are currently re-negotiating their CSO obligations with FLS, so there is a risk that these obligations might be threatened. We're in regular contact with FLS and will monitor this situation closely.

5.3 We also understand that certain other renewable energy businesses are only offering CSO on the part of their site that is on FLS land – and not on the non-FLS part of the site. Others don't believe that CSO will work for their projects, and some have said that they would only offer CSO in future if it's mandatory.

6.0 Good Practice Principles (GPP)

6.1 The Scottish Government's Good Practice Principles for Shared Ownership of Onshore Renewable Energy Developments were published in 2014 and reviewed, updated, and re-published in 2019. [Shared Ownership - Local Energy Scotland](#)

6.2 The GPP captures the Scottish Government's ambition for CSO, as well as best practice, and the publication has been agreed widely by industry, but not always adopted in practice.

6.3 For example, we are aware of a recent CSO offer that strayed somewhat from the GPP, did not work for the community, and had to be rejected by the community. We are currently investigating why exactly CSO didn't work for this project.

7.0 Progress with CSO

7.1 In 2020 59% (10) of all consented projects (17) offered an element of CSO, exceeding the Scottish Government's 50% ambition¹.

¹ See: [Community energy in Scotland 2020 report - Energy Saving Trust](#)

7.2 There's currently a strong pipeline of realistic CSO opportunities in Scotland. Local Energy Scotland is currently working with 15 fully consented wind farm projects, involving 8 renewable energy businesses, and totalling 141MW CSO.

7.3 Significantly, Local Energy Scotland recently supported the first unsubsidised CSO project to reach an agreement in principle for 5% (2.3MW) of Muirhall Energy's Crossdykes Wind Farm (46MW) in Dumfries and Galloway. This project relies on income from electricity sales rather than any income support or subsidies from government.

7.4 It's still early days for CSO wind farm projects, and stakeholders including RE businesses are still very uncertain about CSO. Local Energy Scotland is therefore working determinedly with stakeholders to make sure these early CSO projects work and can be replicated.

8.0 Summary

8.1 CSO is not currently a material consideration in determining whether or not a development is acceptable in planning terms in Scotland.

8.2 As recently as 28/10/21 the Scottish Government has strengthened its ambition around CSO in its onshore wind policy statement, which states it is now expected that community shared ownership is offered as standard in all new renewable energy projects.

8.3 If the Scottish Government's ambition is not met in future, there may be ways and means other than through the planning system that community shared ownership could be made mandatory. However, as noted above it is out-with our area of expertise to comment on the Scottish Government's legal competence in any particular area.

8.4 In the meantime it is important to deliver as many successful CSO as possible to grow confidence in the industry and ensure that the Scottish Government's ambition continues to be achieved.

9.0 Recommendations

Energy Saving Trust recommends that:

1. Local Energy Scotland continues to monitor and report to Scottish Government annually on the level of CSO opportunities in newly consented projects.
2. Local Energy Scotland monitor and report to Scottish Government annually on the level of CSO opportunities being realised.

3. The Scottish Government should establish an online register of CSO opportunities and completions, similar to the existing CBF register.
4. The Scottish Government should reinforce the importance of adherence to the industry agreed GPP to ensure that CSO offers are likely to work. This could be done via refreshes to the Scottish Energy Strategy and any other appropriate interim policy statements for example the outcome of the current onshore wind policy statement consultation mentioned above.
5. The Scottish Government should determine whether there are ways and means other than through the planning system that CSO could be mandated in future if required.