

**DRAFT CULTURE (SCOTLAND) BILL CONSULTATION**  
**REPORT OF RESPONSES**



**SCOTTISH EXECUTIVE**

**August 2007**

# **DRAFT CULTURE (SCOTLAND) BILL CONSULTATION**

## **Introduction**

The draft Culture (Scotland) Bill was issued for consultation in December 2006. The draft Bill included provisions about:

- The local provision of culture and approaches to ‘cultural planning’;
- The establishment of a new public body, Creative Scotland;
- The governing legislation of the bodies referred to as the ‘National Collections’;
- The introduction of criminal offences related to dealing in ‘tainted’ cultural objects;
- Local authorities’ powers to broadcast information about their functions; and,
- Changes to the law connected with the management of museums and libraries.

The draft Guidance published alongside the draft Bill set out how sections 1-3 of the draft Bill, which related to local cultural provision and planning, were intended to operate in practice.

Two hundred and twelve responses were received to the consultation paper and draft Bill and Guidance. A list of those who responded is attached at Annex A (those who did not want their details divulged are not included in the list). The consultation document which accompanied the draft Bill and Guidance set out specific questions for individuals and organisations to respond to as well as make general comments about the overall proposals. This document summarises responses received.

This document does not provide any view of the present administration. It seeks only to report the views of persons who responded to the consultation.

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## Main points raised

- The guiding principles for local cultural planning and entitlements attracted support; some strengthening of the proposals was sought by consultees, to encourage greater impact and ambition. Respondents from the cultural community and their representatives, in particular, commented that the draft Bill failed to capitalise on the vision which they believed had inspired it.
- A range of commentators were pleased that culture was attracting prominence, but also looked for the kind of policy framework proposed by the Cultural Commission, focused on cultural rights or headline objectives/national entitlements, to guide implementation and fix a prominent position for culture at national level.
- The local authorities generally gave a warm welcome to the package – they thought the legislation could serve to increase the profile of local delivery, and the ability of culture to meet a wide range of key objectives. They also welcomed proposals for a strategic Quality Assurance Framework.
- A strong view from the local authority sector sought effective measures to ensure tangible commitment by Community Planning partners to cultural planning and entitlements.
- Consultees believed that new resources were required to support arrangements for implementation and delivery of cultural planning and entitlements.
- Some respondents looked for a more strategic approach to partnerships between the national and local levels (embracing all culture sectors), and questioned whether the existing local infrastructure was equipped to deliver this agenda.
- Consultees were predominantly in favour of establishing Creative Scotland, though a good number wanted clarification of its remit and role within the sector.
- A strong view from respondents was that the Ministerial power of direction should not interfere with the ‘artistic judgement’ of the new body, and that the so called ‘arms length’ principle should not be diminished.
- Consultees were also concerned about the proposal for Creative Scotland to have a particular responsibility to pursue the economic benefits of the arts and culture. A considerable number considered that this would diminish the importance of ‘art for arts sake’.
- Clarification was sought on how Creative Scotland would work with existing advisory cultural bodies and avoid duplication of work.
- A number of respondents argued that particular groups and types of person should enjoy allocated places on the board of Creative Scotland.
- Respondents sought reference to ‘artists’ and a definition of ‘culture’ in the draft Bill.

- Respondents were mostly in favour of the National Collections remaining as constitutionally separate centres of excellence.
- Respondents largely agreed that the powers and functions proposed for the Collections were broadly correct.
- There was a majority in favour of the Faculty of Advocates having a place on the Board of the National Library of Scotland.
- The majority of consultees agreed that the Collections have the appropriate powers to obtain, loan and dispose of objects for or from their collections, although there were a number of detailed comments and suggestions about these proposals might be further improved.
- A good number of consultees felt the name ‘National Record of Scotland’ was confusing and did not adequately describe the activities of the body.
- A considerable majority of respondents agreed that an offence similar to that in the Dealing in Cultural Objects (Offences) Act 2003 should be introduced in Scotland.
- Respondents were generally in favour of local authorities having general powers to broadcast about their activities, and felt generally that explicit provision should be made on this issue.

# DRAFT CULTURE (SCOTLAND) BILL CONSULTATION

## Questions and Responses

### **1. Do you think that developing local cultural entitlements will help to increase participation in cultural activities?**

Of the 212 replies to the consultation, 139 (66%) submitted comments on the proposals for cultural planning and entitlements. Nearly all local authorities (29), and their representative bodies, submitted comments.

The local authority respondents were most likely to respond affirmatively to this question, albeit with some reservations. They believed that the cultural planning and entitlements proposals had real potential to increase participation – particularly by meaningful engagement with communities to determine the provision they wanted. They thought this would also help to increase culture’s profile and promote better understanding of ‘the offer’. The methodology in the draft Guidance was mostly thought helpful and appropriate, but many consultees argued that in order to be effective additional finance and commitment would be needed from a range of partners.

A number of respondents, including some local authorities, believed that the discretion permitted to local authorities in the draft Bill and the lack of guaranteed access to provision, could significantly undermine the impact of the proposals and therefore do little to build upon the status quo. The lack of a ‘guarantee’ led many to question whether the term “entitlements” was in fact appropriate and helpful. They felt, however, that a definitional and aspirational framework was required, and some, including local authorities, favoured the notion of “cultural rights” or other Scotland-wide objectives to provide a clear strategic landscape for the local arrangements. Most commentators seemed clear that it should be far more possible to achieve tangible improvement in participation by more socio-economic groups, and to impact upon strategic priorities, if cultural planning arrangements were embedded in Community Planning processes.

### **2. If you believe further or alternative measures are necessary, what are they?**

#### ***Increased resources***

A key additional measure sought by respondents from all sectors was increased resourcing (human and financial), or incentives to enable and encourage local authorities’ response to what could be their residents’ raised expectations. As noted above, the processes proposed – e.g. consultation with, and support to, under-represented and marginalised communities – were considered resource-intensive. That said local authorities and a range of respondents supported cultural planning approaches, thought the methodology sound and, if supported and funded, could deliver improvements. They sought sustained new investment to replace short-term ring-fenced schemes: for example, several local authorities stated that the various schools co-ordinators and “Links” posts should be consolidated and devolved to them.

### ***Roles of key players in delivering the ‘cultural planning and entitlements’ agenda***

Several local authorities, while acknowledging their own key role, queried others’ responsibility for the cultural planning and entitlements agenda: what would be done to require those parties to take action? They identified a role for the whole public sector (including e.g. Health Boards, Scottish Enterprise, Communities Scotland etc). CoSLA and a number of local authorities sought legislation to ensure the commitment of Community Planning partners, and national cultural agencies. Some thought it vital that cultural planning and entitlements should be embraced by Community Planning, and the necessary provisions should be as strong as possible.

Action to secure the engagement of national cultural agencies, including the Collections and national performing companies, was also important to many respondents. They sought clarity on the role that national organisations (including advisory bodies) would have in the interface with local authorities. Much of that comment focused on Creative Scotland and its level of responsiveness to local issues and organisations.

### ***Strengthening of the proposed provisions***

The culture sector believed that the proposed provisions (and funding) required to be strengthened to avoid a ‘tick box’ approach, and local authorities simply re-badging existing provision. The sector also stressed the importance of good quality provision, counselling that a predominant focus on increased participant numbers would be counterproductive. Delivery would require appropriate local infrastructures – in terms of policy, administration and estates - and that should extend beyond Community Planning, which was viewed by local groups as not yet engaging the ‘person in the street’. Development and skilling needs at local level were mentioned also, for capacity building and achieving greater engagement with, and through, the independent, community and voluntary sectors.

There was a call for mechanisms to support strategic cross-local authority working. Some local authorities wanted arrangements that would bring cultural sector bodies into a closer working relationship with their own sector. And several parties representing specific communities of interest asked for supported measures to break down barriers to cultural access experienced by their cohorts – e.g. rural communities facing issues associated with transport, cost and local capacity. Those representing local bodies looked for measures to encourage more partnership activity involving local authorities, national bodies and local arts and culture groups. Those with an interest in economic development asked if the needs of ‘temporary residents’ and tourists would be considered.

### ***Accountability and the Quality Assurance Framework***

Accountability was considered important by the majority of consultees who felt arrangements were needed to ensure consistently high standards and promote continuous improvement. Many wanted mandatory arrangements in place of the requirement on local authorities to “have regard” to the statutory Guidance.

Local authorities and cultural agencies welcomed proposals for a new strategic Quality Assurance Framework. Most local authorities were particularly keen that this should be on the lines proposed in the draft Guidance: an integrated, outcomes-based, qualitative and quantitative self-assessment tool, measuring *inter alia* wider impacts and community satisfaction. It would follow the principles of the Excellence Model of the European Foundation for Quality Management and other tools in use locally for education and community learning and development. There was much support for de-cluttering the landscape of performance assessment, and for approaches such as the popular Public Library Quality Improvement Matrix and a similar model being developed for museums. The latter would provide sector-specific tools within the strategic Framework. Several respondents asked if the results of the self-assessments would be published in the interests of transparency and if good practice would be shared.

Views were mixed on the need for independent review, verification or inspection. Some favoured a pan-Scotland framework of outcomes/standards and asked for these to cover all key culture sectors, e.g. museums, libraries etc, and specific reference to the position of artists and other practitioners. Certain local authorities asked for sport to be included in a cultural planning/entitlements agenda.

### **3. How do you think the Scottish Executive and local authorities can best utilise the influence and impact of cultural activity?**

The question was designed to obtain feedback on consultees' perceptions of culture's wider policy impacts, and ways in which those could be employed to help improve the quality of life in Scotland.

Responses on this point were sometimes influenced by respondents' views about the question itself. Local authorities had much to say about the many possible applications of cultural policies to benefit local economies, the environment, and community and individuals' health and well-being. Specific policies quoted ranged widely from community safety, to education, social justice, employment, regeneration and poverty reduction etc. Many respondents from various sectors were keen to stress that, while they were very aware of culture's significant and helpful impacts, it should be valued mainly for its own sake. The principal benefits of the arts were not social, and that should not be the chief reason for commissions.

The arts community stressed that instrumental applications should always have regard to the protection of cultural values. Those respondents promoting the cultural planning agenda highlighted the transforming role that culture could play in regeneration activity. The role of culture in education was discussed by several respondents, especially those working with children and young people, who saw schools having a key role to provide a variety of cultural opportunities.

Some believed that impact could be promoted by increasing the emphasis in the draft Bill and Guidance on access for non-attenders; other commentators thought the overall 'package' placed too much weight on instrumentality. Some repeated comments about new resources, and statutory duties to deliver cultural planning and strengthen Community Planning processes, from which they thought other benefits would flow. It was also noted that to maximise the integration of culture into other strategies, the cultural and creative community needed to present a strong(er) and clear identity.

### *Linkages with other Executive bodies*

Respondents asked how the draft Bill would link with other policies of the then Executive - e.g. on young people Not in Education, Employment or Training – and it was suggested that a range of policy interests should give material support to local cultural planning in furtherance of their objectives. A related comment (from one local authority) proposed “cultural wellbeing” as a new public policy objective. Clearly, local authorities would welcome the publication of evidence, impacts and best practice, and the sharing of advice on assessment methods.

#### **4. Do you think the initial draft Guidance under this part of the Culture Bill is clear and helpful? Is there anything else it should contain?**

The draft Guidance had been produced for the use of local authorities, with input from sector representatives (and others from the culture sector).

Clearly, local authorities largely welcomed and found helpful the presentation of basic concepts and suggested processes, and some remarked that it was important for the draft Bill and the Guidance to form an integrated package. The Guidance’s recognition of cultural planning approaches was acknowledged appreciatively.

Many respondents questioned the clarity of certain terms used in the Guidance, which appeared to them inconsistent with those in the draft Bill. Some national cultural bodies asked for clarification of their advisory roles as described in Annex 2 of the draft document. A few commentators thought some aspects of the Guidance might be hard for communities to understand. Others wanted additional sets of guidance to be produced for the range of Community Planning partners and public bodies who could contribute to cultural delivery, describing their respective contributions.

Some respondents wanted the Guidance to include more examples of generic cultural entitlements, and others asked for examples of good practice (which currently are provided on the Executive’s website, to be supplemented over time). The encouragement of local authorities to partner each other across geographical boundaries was also suggested. ‘Grass roots’ organisations thought the Guidance did not go far enough. Some asked for more emphasis to be placed on the valuable planning and delivery roles which could be supplied by the independent, voluntary and community cultural sectors, as partners of the local authorities; the latter should include other sectors’ provision within their mapping of local cultural activity. One section which respondents from the community arts sector looked to see expanded was practical advice on the best ways to engage people from non-attending social groups. Similarly, more could be included about skills development, and the potential role of further and higher education bodies in helping plan cultural provision. Many looked forward to the additional guidance mentioned in Part 2 of the document – i.e. the strategic Quality Assurance Framework.

Some local authority sector bodies thought the various information requirements described in the Guidance (linked to the draft Bill) somewhat burdensome and too heavily focused on outputs; respondents questioned what use Ministers would make of the information submitted.

**5. Do you agree that there should be a single national cultural development body?**

137 respondents answered this question with the majority agreeing that there should be a single national cultural development body merging the Scottish Arts Council and Scottish Screen.

**Agreed - 87 (63%)**

**Disagreed - 15 (11%)**

**No strong views expressed either way or did not answer the question - 35 (26%)**

Those that agreed were supportive in terms of the merger minimising bureaucracy, being more efficient and encouraging greater partnership working than the existing situation. One respondent commented that the establishment of Creative Scotland was an important way forward for the arts and creative industries of Scotland. Another welcomed support for arts and moving image with an enterprise function.

The majority of respondents felt whilst agreeing to the new body, that its role and responsibilities should be more clearly defined in the Bill, and that Creative Scotland would have to work closely with cultural agencies, local authorities and other cultural partners.

A number of respondents suggested that a national cultural forum, chaired by Creative Scotland or a Minister, be set up to assist with strategic discussion.

Gaelic organisations agreed a single body provided it built on the work of the Scottish Arts Council and promoted and developed Gaelic arts as a priority.

Those that disagreed felt that there would be a risk of confusion of the roles between the new body, local authorities, existing advisory/development bodies (Scottish Library and Information Council (SLIC), Scottish Museums Council (SMC), Historic Scotland (HS) etc) and the Scottish Executive. Respondents felt the description of the new body - ‘a single cultural development body’ caused confusion as there are other ‘development’ bodies across the cultural sector, namely SLIC, SMC, HS and others, and wanted greater clarification of Creative Scotland’s role.

Shetland Islands Council felt a single body would be “too unwieldy” and the University of Aberdeen felt that one body could not deliver the diverse range of cultural activity.

Equity suggested reforming the Scottish Arts Council and Scottish Screen bodies as they currently stand. The STUC said the re-branding and reorganising of the new body would create unnecessary costs.

A number of moving image organisations were concerned that a merger would diminish the importance of the film and screen industries.

**6. Do you agree with the remit proposed for Creative Scotland? Has it the right powers and functions?**

101 respondents answered this question.

<b>Agreed</b>	<b>27 (27%)</b>
<b>Disagreed</b>	<b>3 (3%)</b>
<b>Other comments</b>	<b>71 (70%)</b>

Those that agreed with the remit, powers and functions of Creative Scotland, agreed outright, generally with no specific comments.

Those that disagreed felt that the remit and powers and functions made the new body too connected to the Scottish Executive or that they were lacking connection with creativity and artistic practice.

The majority of respondents felt that the remit was too broad and lacked clarity and could duplicate work of local authorities, Scottish Enterprise, Highlands and Islands Enterprise and enterprise networks. They also felt that there was a need for greater clarity of Creative Scotland's role in relation to key advisory bodies representing other cultural sectors (e.g. Scottish Library and Information Council, Scottish Museums Council, Historic Scotland).

A number of Gaelic arts organisations commented that that they would like to see a specific function of Creative Scotland promoting Gaelic culture and Gaelic arts.

A number of moving images organisations felt the remit and powers and functions needed to recognise the screen industries. Concern was also expressed that Creative Scotland will not have sufficient resources or expertise for economic development of screen industry companies.

Creative industry organisations wanted clarification of Creative Scotland's role for creative industries and felt that the remit lacked clarity about the body's economic development role.

**7. Do you agree that Creative Scotland should work in concert with the Scottish Executive to implement national cultural policy?**

102 respondents commented on this question.

<b>Agreed</b>	<b>78 (76%)</b>
<b>Other comments</b>	<b>24 (24%)</b>

The majority of respondents who agreed that Creative Scotland should work in concert with the Scottish Executive also added that this should be in conjunction with local authorities, CoSLA, other advisory bodies, and other cultural agencies.

Aberdeenshire Council felt that it was essential that Creative Scotland works with the Scottish Executive and local authorities, and said that the working groups established to deal with specific aspects of the draft Bill provide a model that could be built on for further collaborative working.

Learning and Teaching Scotland felt that paragraph 3.8 of the draft consultation document appeared to strike the right balance between an independent ‘arms length’ approach with an advisory role, and Ministers reserving the right to issue strategic direction.

No respondent disagreed that Creative Scotland should work in concert with the Scottish Executive.

There was, however, strong concern from respondents, and also some who had agreed to Creative Scotland working with the Scottish Executive, about the Ministerial ‘powers of directions’. The majority of respondents felt that the ‘arms length’ principle would be diminished by Schedule 1, paragraph 16(1) of the draft Bill. They believed that this proposal could interfere with Creative Scotland’s artistic judgement. There was a strong view amongst respondents that Creative Scotland should remain independent from the Executive and Ministerial intervention is avoided.

The Scottish Arts Council and Scottish Screen argued that Creative Scotland should be empowered to play the ‘lead’ strategic role in development and delivery of vision, and that the draft Bill needs to be explicit in the ‘power of direction’ intention.

Comunn na Gaidhlig agreed that Creative Scotland work with the Scottish Executive, Whitehall and the Department for Culture, Media and Sport to encourage Gaelic broadcasting.

The suggestion of a National Cultural Forum to get consensus and co-ordination at national level was suggested once more by organisations such as Scottish Theatre, Inverclyde Council, Scottish Borders Council, University of Edinburgh. However, East Ayrshire Council argue that a national cultural body cannot exist because there are currently National Collections. They also suggested that there is a need for a streamlined funding, monitoring and evaluation process enabling better co-ordination and limiting duplication of work.

SOLACE Scotland asked what areas will Creative Scotland advise the Scottish Executive and Ministers on.

UNISON Scotland said the ‘powers of direction’ seemed unexceptional. The STUC said that the Ministerial direction was open to wide interpretation.

### ***General Comments on Creative Scotland***

Respondents made other more general comments about Creative Scotland as follows:-

- Wonders if Bill can require all Scottish Executive departments to demonstrate commitment to cultural activity?;
- Creative Scotland board member representatives should be a) a Gaelic speaker and have a background in Gaelic arts, and b) to be a member of a local authority;
- Creative Scotland should adopt bilingual corporate identity using Gaelic and English;
- The scope of Creative Scotland should encourage and support local public service TV and community media;
- How about a virtual cultural body?;
- Single body should encompass diverse communities;

- Want a representative from the deaf and volunteer community on Creative Scotland board;
- Want clarification if Creative Scotland will fund/partially fund local film offices;
- Would like Scottish Executive to consider regional office of Creative Scotland with broadband internet capabilities – no rationale for centralisation;
- Creative Scotland should have a new board and not from existing members;
- Do not support Creative Scotland being given powers to set standards for local provision nor do we see any need for it to play a part in a quality assurance framework based on self evaluation by local authorities.

**8. Do you agree that the National Collections should remain as constitutionally separate centres of excellence?**

75 respondents answered the question, with an overwhelming majority in favour of the National Collections remaining as constitutionally separate centres of excellence.

**Agreed – 63 (84%)**

**Disagreed – 3 (4%)**

**No strong view for or against – 9 (12%)**

Only 3 respondents, 4%, actually felt that the National Collections should not remain constitutionally separate. Of these one gave no reason. Dumfries and Galloway Council offered an explanation for their view. Dumfries and Galloway Council felt there was no reason for the bodies to retain separate status and that the large number of areas where economies of scale could be achieved suggested a joint body would be beneficial. In addition, the similarity of purpose of these bodies was argued to be another point in favour of a joint body. East Ayrshire Council said it would seek to bring the bodies together as part of Creative Scotland but in the current structure, it would be beneficial to make a concerted effort at partnership working

However, the majority of respondents favoured the retention of constitutional separation. Of these, around 75% offered an unqualified agreement for retention. A number of respondents did qualify their agreement with provisos such as that it was on the basis that these bodies would undertake much more in the way of joint working, both with each other and in some cases with other bodies such as local authorities and the Scottish Arts Council. There was support for the co-ordination of common support functions among the National Collections from a number of respondents and for the view that the National Collections should remain separate as long as their work contributes to a national cultural policy and complements the work of Creative Scotland. Midlothian Council suggested consideration be given to including representatives of the appropriate strategic advisory bodies on the Boards of the National Collections.

12% of respondents either gave a view that was ambiguous or stated that they had no strong view on the question. SMC for example noted that the partnership opportunities between the National Collections and the non-national sector should be strongly acknowledged but that the term “National Collections” was one which could lead to confusion. The Western Isles Council response felt that the National Collections had little impact in the Outer Hebrides and had concerns about bringing culture to the people, rather than vice versa.

**9. Do you think the powers and functions proposed for the Collections in the draft Bill are right? If not, how would you improve them?**

71 respondents answered this question with large majority agreeing that the powers and functions as drafted were broadly correct.

<b>Agreed</b>	-	<b>48 (68%)</b>
<b>Disagreed</b>	-	<b>23 (32%)</b>

19 respondents expressed no view strong view either way or did not answer the question.

Those that agreed were particularly supportive of the National Collections being given a statutory role to provide advice and share their expertise with other organisations in the sector.

However, those that did not agree, including a number of local authorities, made it very clear that there is a need to acknowledge the expertise of non-national collections and that the sharing of expertise should be a two way process. Local Authorities also suggested that it should be made clear that the Collection’s advisory role should relate only to their functions and particular areas of expertise and advice should only be offered when relevant. They also thought that the importance of collaboration and consultation with other stakeholders in the provision of advice should be emphasised.

East Renfrewshire Council asked for clarity as to exactly what “*advice and assistance to local museums, galleries and libraries*” actually means.

Similarly, Scottish Museums Council (SMC) acknowledged that though there is a role for the National Collections in providing leadership in the sector they stressed that they also have an important role. SMC argued it already provided leadership to local collections and therefore sought clarity as to the definition of the roles of the National Collections in terms of offering support to local museums and galleries.

CoSLA suggested that National Collections should be required to increase diversity and access. One specific idea was that participation could be increased by imposing duty on Collections to increase audience diversity through explicit requirement to link with local cultural planning. Further clarity required on collections of significance.

Full consultation with the cultural sector on the development of standards and quality assessment process was generally welcomed though the National Trust for Scotland (NTS) made clear its view that the new Quality Assurance Framework must take into account the peculiar challenges it faced along with other bodies who manage historic house collections. Others also questioned whether the quality assurance framework might cut across the work already started by the Scottish Museums Council. NTS noted it was keen to be involved in the development of standards for collections sector.

Comhairle nan Eilean Siar suggested that there should be legal provision made for the National Collections to support island local historical societies (voluntary groups) with advice on maintenance and exhibition of archives. These societies often provide the only access to collections in rural areas.

There was a general feeling that the Executive's scheme to recognise significant museum collections should be included in the Bill.

Highlands & Islands Enterprise noted that no role is mentioned for RCAHMS in protecting and conserving historic landscapes and townscapes. They suggest that this is a potential weakness.

The Society of Antiquaries of Scotland said that the qualifications/skills required for appointment as a National Museums Scotland Trustee should include knowledge that reflects the principal subjects of the collections and not just the general functions of the board.

Kilmartin House Museum suggested that the Scottish Executive with local authorities and cultural organisations (including Creative Scotland, SMC) should decide what national cultural entitlement is and then help roll this out on a national and local level. They also thought that all Museums should be put on a statutory footing otherwise nationally and regionally important collections might be lost.

All three National Collections expressed serious concern over the increased Ministerial powers of direction. National Museums of Scotland (NMS) did not feel this was appropriate in terms of accountability of Boards. They also said a clearer balance was needed between Board's responsibilities for objects pertaining to Scotland and other parts of collections. They thought appointments should be for fixed terms and did not think that Ministerial approval of employee terms and conditions not justified. This is a view shared by the National Galleries of Scotland (NGS).

NGS and National Library of Scotland (NLS) requested clearer definitions of the devolved responsibilities of Trustees and sought reassurances that Ministers will not seek to interfere in the details of artistic policy. NLS also sought clarification as to whether it can apply for whatever grants/monies it sees fit as it didn't think this was clear from Paragraph 3 Clause 18 (1) a and b.

Susan Kirkwood asked that a specific requirement be included for the Collections to make available free of charge all material (electronically or otherwise) they hold outside author or publisher copyright or published under a GPL (General Public Licence) and to actively encourage information to be submitted to the collections under a GPL. This is particularly important for traditional song, music and culture.

UNISON said that if the provision of cultural functions in communities is so important then the need for statutory provision at local level is as clear as it appears to be at National level. They considered it strange that Creative Scotland has no linkages to the National Collections and suggested that the removal of reserved places on the NLS board should be carried out entirely or not at all.

Two respondents thought that the National Collections should be enhanced by addition of Scotland's languages to their remit.

**10. Do you agree that the Faculty of Advocates should be able to contribute to the Board of the National Library of Scotland by having at least one representative?**

49 respondents answered the question, with an overwhelming majority in favour of the Faculty of Advocates contributing to the Board of the National Library of Scotland (NLS) by having at least one representative.

**Agreed – 40 (82%)**  
**Commented but no view either way – 8 (16%)**  
**Disagreed – 1 (2%)**

19 local authority responses were received (including CoSLA). Of those, none disagreed with the proposal that the Faculty of Advocates should have at least one rep on the Board of NLS. 15 authorities (including CoSLA) agreed that the NLS Board should have a Faculty representative, though a number of these expanded this to say that the Board should have representatives of their key stakeholders on the Board (i.e. not just the Faculty). 4 local authorities offered comments but did not answer yes or no. South Ayrshire Council, for example, stated that board members should add value as a consequence of their skills and experience, and that ex-officio members may not necessarily add this level of value. Aberdeen Council said that key stakeholders should be represented but that it did not feel that the Faculty was a key stakeholder.

However, 81% of respondents stated that they agreed that the Faculty of Advocates should continue contributing to the Board of the NLS by having at least one representative. A number again made the point that the Board of NLS should have key stakeholder representation rather than just the Faculty.

Only 1 respondent – Dumfries Theatre Royal Trust – said they could see no valid operational reason for the Faculty to have a representative on the NLS Board.

**11. Do you agree that the Collections have the appropriate powers to obtain, loan and dispose of objects for or from their collections? If not, what would you change?**

57 consultees responded to the question.

**Agreed – 35 (61%)**  
**No strong view for or against – 21 (37%)**  
**Disagreed – 1 (2%)**

*Wider access*

9 local authorities, SLIC, COSLA, SOLACE, Poverty Alliance, and the Scottish Museums Council all felt that wider access to the National Collections should be encouraged via tours or loaning of objects. South Ayrshire Council in particular suggested that local authorities should be given resources to house collections if the appropriate environment/security standards were not adequate, they saw the collections as a channel for grants. Similar views were expressed by North Ayrshire, Shetland Islands, and Stirling Council. SLIC and Inverclyde Council also suggested setting up an access agreement between National and Local Collections or an

exchange agreement which safeguards for the long term preservation of the items to be established.

### ***Issues arising from disposal of objects***

The Museums Association, Learning and Teaching Scotland and the Saltire Society suggested that an independent adjudicated process may be required to ensure that disposals were exercised in accordance with accepted professional standards and to deal with any disposals not supported by the wider society. Dumfries and Galloway Council suggested that any object considered for disposal by whatever means could be first offered to any appropriate local facility that could demonstrate legitimate interest in the object. The Hunterian Museum and Art Gallery, Royal Society, Aberdeen University and the National Trust were concerned about overturning the donor's conditions about lending after 25 years from date of acquisition. The Royal Society in particular felt that 19(b) in the bill would discourage potential donors if the cultural body could dispose of anything which it considered it 'no longer required' the Hunterian Museum and Art Gallery also wished that the proposed option to sell should be removed. The National Museums however suggested that a more flexible approach on collecting and disposing was necessary due to rising costs of collecting. They commented that museums need to consider other options such as sale to private collections or destruction.

### ***Repatriation***

Aberdeen University, Aberdeen City Council, Learning and Teaching Scotland and Comhairlie nan Eilean Siar all felt the draft Bill could look into facilitating legal provisions to encourage repatriation.

## **12. What do you think of the name 'National Record of Scotland'?**

There were 107 responses to this question.

- Name is acceptable/an improvement on RCAHMS - **14**
- Name is confusing/does not adequately describe the activities of the body - **48**
- Name confuses with National Archives of Scotland or other bodies - **25**
- Alternative name suggested - **16**
- Name fits with other National Collections - **1**
- Name is uninspiring - **2**
- Unsure - **1**

### **Alternative names proposed:-**

National Survey of Scotland  
National Survey of Scotland's Historic Environment  
National Survey and Record of Scotland  
National Record of Scotland's Culture  
National Record of Scotland's Monuments  
National Record of Monuments, Scotland  
National Monuments Record of Scotland (2 respondents)  
National Monuments of Scotland

National Sites and Monuments Record  
National Heritage Record of Scotland  
National Heritage of Scotland  
Historical Register of Scotland  
Historic Environment Agency  
Built Heritage Scotland  
Monumental Scotland  
Ancient & Monumental Scotland  
The Ancient and Monumental Commission  
Commission for Ancient & Historic Monuments

**13. Do you agree that an offence similar to that in the 2003 Act should be introduced in Scotland?**

76 respondents answered this question.

**Agreed – 70 (92%)**

**No views either way - 6 (8%)**

No one disagreed with this question. Three respondents, including the Scottish Archaeological Finds Allocation Panel (SAFAP), recommended that Scottish archaeological material that has not been reported through the Treasure Trove system and disclaimed would be considered to be tainted.

Three respondents suggested that certain museums should be allowed to receive material which is tainted (e.g. important items which have been seized by customs and excise, or which no country of origin/owner can be determined.)

**14. Do you agree local authorities should have a general power to broadcast information about their activities?**

There were 83 (39%) responses to this question.

A substantial majority (76) were in favour of local authorities having general powers to broadcast about their activities. Some felt that local authorities should only hold a broadcast licence as a last resort and it would be preferable for community media groups to actually provide local broadcasts/television. There was a reasonable amount of support for a joint approach to local broadcasting, where local authorities would and should work closely with local community organisations and some suggestions that funding should be provided to local authorities to fund broadcasting activity.

Other comments suggested that local authorities should be able to broadcast about wider issues, not just their activities, others felt it would be important to clearly define exactly what local authorities would be able to broadcast about. Some respondents appeared to consider broadcasting on cultural issues as being the aim of this aspect of this element of the Culture Bill. Clearly, there were conflicting opinions about how far the measures should go and many felt that clear guidance setting out how and what local authorities could and should broadcast about would be required. Most local authorities that responded were in favour of using television and radio as well as other new media (e.g. podcasts, mobile and internet

services etc) to allow them to engage fully with the public and decrease the 'information divide'.

A small number of respondents queried the Scottish Executive's right to consult and legislate on broadcasting matters given that they are reserved to Westminster. However, many respondents realised that this proposal amends an anomaly created by the Communications Act 2003 that allows local authorities in England and Wales to hold broadcast licences.

Two respondents believed that local authorities should not be allowed to broadcast as this would infringe the activity of local community media.

**15. Do you think it necessary to give authorities this power in this Bill, or should local authorities be left to rely on 'the power to advance well-being' in section 20 of the Local Government in Scotland Act 2003?**

Most respondents (54 of 61) to this question believed that the local authority power to broadcast should be explicit and included as a specific piece of legislation (i.e. the Culture Bill) rather than relying on the Local Government (Scotland) Act 2003 as suggested above. The reasons for this were varied but were mainly down to the clarity this would bring to the power to broadcast and to give protection in the broadcast markets. Two respondents felt that the Local Government (Scotland) Act 2003 did give sufficient powers. 22 respondents who replied to question 14 either did not comment or had no views on this question, a further 3 queried the suitability of using consultation to seek views on this, which was seen as a legal issue or procedural issue for Parliament, the Executive and CoSLA.

**General comments on the Draft Culture (Scotland) Bill**

- Welcome broad principles in Bill;
- The word 'culture' appears to have varying interpretations through the draft Bill and draft Guidance. Need a definition of 'culture';
- Remit is ambiguous at para. 8 (2)(b), para. 8 (2) (c) – replace 'in particular' with 'including';
- Pleased to see 'participation' written into the remit. Would strengthen this by adding at 8.4 – "...and (a) to (c) of subsection 3.";
- Modify Part 2, section 8(2) – to read "the arts and culture, including the arts and culture of Scotland and their international outreach"; Part 2 8(2) insert as (c) "of co-operating with educational agencies to ensure that cultural components are incorporated within the curriculum across the ages 3-18"; Change original (c) to (d) and replace "in particular" to "including".
- 8 (2)(c) misunderstands the arts fundamentally.
- Terminology confusing 'national cultural organisation', 'national cultural body';
- Disappointed draft Bill has no specific question related to change in library legislation;
- Bill a missed opportunity; lacks vision, ambition and aspiration;
- Schedule 1, 16(1) open to misinterpretation;
- No mention of status of artist. Bill doesn't recognise the artist's vital contribution;
- No clear structure within the Bill to enable strategic partnerships between bodies and institutions;
- Amend Schedule 1, 7 (5), 9 (3) and 9 (4) – Creative Scotland should be independent of Government;

- Modify Part 2, 8 (2) (a) ' ... the arts and culture, including the arts and culture of Scotland and their international outreach'. Part 2, 8 (2)(b) 'Identifying and developing (delete 'talent') creativity and creative practitioners, and creative and cultural enterprises which support and develop the talents and careers of creative artists.' Insert as (c): 'of co-operating with educational agencies to ensure that cultural components are incorporated within the curriculum across the ages 3-18.' Change original (c) to (d) and replace '... in particular, the economic...' by '...including the personal, social and economic value and benefits...'
- Sport not mentioned in draft Bill;
- Bill does not acknowledge the Higher Education contribution to the creative sector. Creative Scotland's supporting role for University national collections should be considered for draft Bill.
- Bill doesn't acknowledge contribution of museums sector;
- A clause on Creative Scotland promoting young people participating in cultural activities is a suggestion;
- The Gender Equality Duty (GED) comes into force in April 2007. The GED is contained within the Equality Act 2006. The gender duty should be factored into the draft Culture Bill;
- Disappointed 'archives' not mentioned in Bill;
- The National Trust commented that a further sub clause should be added to refer to the donor's wishes;
- *19 (e) The disposal is consistent with any conditions required by the donor of the object*  
Also worth exploring; whether last word in Section 20 (2) (b) (i) should be *and* rather than *or*

- The National Museums of Scotland would like to see provisions 19 (a) and (b) to be modified as follows:

*(a) The object is a duplicate of another object in that collection;*

*(b) The Body considers that the object is no longer required.*

*In disposing of items from the collection under a) b) or c) above, the board shall prefer disposal by gift, sale or exchange, but may if these are not available, dispose by other means, including, as a last resort, destruction.*

- The National Galleries of Scotland would like to include in 20 (2) (b) (i) the person's representative, and suggest amending the wording of serial 14(2) (a) and (b) to:

*a) To manage the NGS as a national resource which acquires, conserves, researches, communicates and exhibits, for purposes of study, education promotion and enjoyment, objects of fine art.*

*b) To care for, preserve and add to the objects in its collection, having due regard, within an international context, to objects pertaining to Scotland.*

Also would change 14 (2) (c) end of (i) to *or*.

## DRAFT CULTURE (SCOTLAND) BILL CONSULTATION

### List of respondents

The following sectors/individuals responded to the draft Culture (Scotland) Bill consultation:-

- Local Authorities
- Audio visual and screen sector
- Voluntary and community arts sector
- National Collections
- Creative industry organisations and individuals
- Public Bodies
- Academic and heritage sector
- Miscellaneous organisations and individuals

212 respondents commented on the draft Culture (Scotland) Bill consultation document and draft Guidance.

40 responses have not been published in line with the wishes of the respondents, or because these wishes were not communicated to us. They do not appear in the list below.

32 responses wished to remain anonymous and in line with their wishes they do not appear in the list below. Their comments are, however, posted on the Scottish Executive website shown at <http://www.scotland.gov.uk/Publications/2007/05/11154331/0>

<b>1. Andrew John Younger</b>	<b>2. Scottish Association for Mental Health (SAMH)</b>
<b>3. Scottish Basketmakers Circle</b>	<b>4. Gray's School of Art, The Robert Gordon University</b>
<b>5. Perth &amp; Kinross Pensioners Forum</b>	<b>6. R D Cramond</b>
<b>7. Simon Ross</b>	<b>8. Belladrum Tartan Heart Festival</b>
<b>9. Highland Youth Voice</b>	<b>10. SPARC Community Arts</b>
<b>11. Dumfries Theatre Royal Trust</b>	<b>12. Shetland Arts</b>
<b>13. Scottish Storytelling Centre</b>	<b>14. Association for Scottish Literary Studies</b>
<b>15. The Fruitmarket Gallery</b>	<b>16. University of Glasgow</b>
<b>17. Standing Committee of Principals of Art Colleges, Scotland (SCOPACS)</b>	<b>18. Benjamin Twist</b>
<b>19. Dumfries and Galloway Council</b>	<b>20. Angus Council</b>
<b>21. Feisean nan Gaidheal</b>	<b>22. East Ayrshire Council</b>
<b>23. Bill Aitken</b>	<b>24. CoSLA</b>
<b>25. RSAMD</b>	<b>26. Public Library Services in Scotland</b>
<b>27. Fife Council</b>	<b>28. Musicians Union</b>
<b>29. University of Dundee</b>	<b>30. University of Glasgow</b>
<b>31. Scottish Language Dictionaries</b>	<b>32. Children in Scotland</b>
<b>33. Equity</b>	<b>34. Scottish Poetry Library</b>
<b>35. South Ayrshire Council</b>	<b>36. Dundee Contemporary Arts</b>

<b>37. Royal Society of Edinburgh</b>	<b>38. Capital City Partnership</b>
<b>39. Comunn na Gaidhlig</b>	<b>40. VAGA Scotland</b>
<b>41. The Faculty of Advocates</b>	<b>42. University of Edinburgh</b>
<b>43. National Trust for Scotland</b>	<b>44. East Renfrewshire Council</b>
<b>45. Learning and Teaching Scotland</b>	<b>46. Scottish Museums Council</b>
<b>47. Scottish Artists Union</b>	<b>48. Aberdeen Performing Arts</b>
<b>49. Scottish Confederation of University and Research Libraries</b>	<b>50. Institute of Local Television</b>
<b>51. Midlothian Council</b>	<b>52. Scottish Community Drama Association</b>
<b>53. YouthLink</b>	<b>54. Fablevision</b>
<b>55. Imagine</b>	<b>56. Screen Academy Scotland</b>
<b>57. Scottish Adult Learning Partnership</b>	<b>58. Scotia Review</b>
<b>59. Awaz FM</b>	<b>60. Council for Scottish Archaeology</b>
<b>61. Clara Young</b>	<b>62. Gaelic Media Service</b>
<b>63. Scottish Records Advisory Council</b>	<b>64. Dundee City Council</b>
<b>65. Faculty of Arts</b>	<b>66. Scottish Theatre</b>
<b>67. Inverclyde Council</b>	<b>68. Glasgow Womens Library</b>
<b>69. Scottish Borders Council</b>	<b>70. Scottish Enterprise</b>
<b>71. Comhairle Nan Eilean Siar</b>	<b>72. Historic Environment Advisory Council for Scotland (HEACS)</b>
<b>73. Scotland's Screen Industries Summit Group (SISG)</b>	<b>74. Stirling Council</b>
<b>75. Scottish Association of Sign Language Interpreters (SASLI)</b>	<b>76. National Museums of Scotland</b>
<b>77. City of Edinburgh Council</b>	<b>78. Artlink</b>
<b>79. University Museums in Scotland</b>	<b>80. West Dunbartonshire CVS</b>
<b>81. The Poverty Alliance</b>	<b>82. Creative and Cultural Skills</b>
<b>83. Museums Association</b>	<b>84. Rose Frain</b>
<b>85. Society of Local Authority Chief Executives (SOLACE) Scotland</b>	<b>86. National Campaign for the Arts</b>
<b>87. Scottish Arts Council/Scottish Screen</b>	<b>88. Prospect Heritage Group</b>
<b>89. Highlands &amp; Islands Enterprise</b>	<b>90. Shetland Islands Council</b>
<b>91. West Dunbartonshire Council</b>	<b>92. Scottish Publishers Association</b>
<b>93. Architecture and Design Scotland</b>	<b>94. The National Youth Orchestras of Scotland</b>
<b>95. North Lanarkshire Council</b>	<b>96. SURF</b>
<b>97. Edinburgh Film Focus</b>	<b>98. Orkney Islands Council</b>
<b>99. Two Lochs Radio</b>	<b>100. Festivals Edinburgh</b>
<b>101. Edinburgh International Book Festival</b>	<b>102. Theatres Trust</b>
<b>103. Scottish Youth Theatre</b>	<b>104. Saltire Society</b>
<b>105. Creative Services</b>	<b>106. Promoters Arts Network (PAN)</b>
<b>107. National Historic Ships</b>	<b>108. Big Lottery Fund</b>
<b>109. Susan Kirkwood</b>	<b>110. UNISON Scotland</b>
<b>111. Falkirk Council</b>	<b>112. National Library of Scotland</b>
<b>113. An Comunn Gaidhealach</b>	<b>114. Scottish Amateur Music Association</b>
<b>115. National Youth Choir of Scotland</b>	<b>116. Lochaber Crafts &amp; Food Producers Association</b>

<b>117. Perth &amp; Kinross Council</b>	<b>118. Caithness Partnership</b>
<b>119. Aberdeen City Council</b>	<b>120. Enterprise Music Scotland</b>
<b>121. The Hunterian Museum &amp; Art Gallery</b>	<b>122. Georgina Coburn</b>
<b>123. Hi-Arts</b>	<b>124. The Glasgow School of Art</b>
<b>125. Moray Council</b>	<b>126. North East Arts Touring (NEAT)</b>
<b>127. Scottish Media and Communication Association</b>	<b>128. Alistair Weatherston</b>
<b>129. Glasgow International Jazz Festival</b>	<b>130. Literature Forum for Scotland</b>
<b>131. Society of Antiquaries of Scotland</b>	<b>132. Glasgow City Council</b>
<b>133. Scottish PEN</b>	<b>134. Highland Print Studio</b>
<b>135. Renfrewshire Council</b>	<b>136. Christina Elliot</b>
<b>137. Aberdeenshire Council</b>	<b>138. Highland Council</b>
<b>139. Dundee City Council</b>	<b>140. City of Edinburgh Council</b>