Summary of Foundation Scotland's response to the DESNZ working paper on Community Benefits and Shared Ownership for Low Carbon Energy Infrastructure

Part 1: Summary

Our Position

Foundation Scotland is the UK's most experienced community benefit fund administrator, having supported the design and implementation of over 100 funds across Scotland since 2004, directly supporting over 400 communities. Our work is built on principles of inclusivity, place-based development, and community leadership, working with developers, asset owners and communities to create long-term, transformative arrangements.

Foundation Scotland strongly supports the principle that developers should provide community benefit funds, but urges government to distinguish clearly between mandating the provision of funds and mandating how funds are delivered.

Foundation Scotland supports mandatory provision of community benefit funds at a consistent rate across technologies deemed to be in scope. Mandating the value of funds across different technologies will provide both developers and community stakeholders with certainty and consistency about what rate of community benefit will be paid for any new low carbon projects.

However, we do not support mandating the delivery arrangements and mechanisms in the manner described in the working paper, which risks introducing rigidity, undermining community agency, stifling community ambition and innovation and long-term impact, and diminishing the quality of engagement and outcomes.

Community benefit funding has resourced and enabled community development across Scotland which, has the most evolved landscape of community benefits practice in the nations that would be covered by this legislation. We therefore want to preserve the hard-won learning around what makes community benefit work well and have reservations about whether a regulated scheme will genuinely provide the flexibility to enable the continued evolution of good practice in Scotland.

We would particularly underscore the value of community development being placed centrally to community benefit processes in order to create impactful arrangements, which creates better outcomes.

This summary focuses on the areas where we provided the most detailed responses to the working paper, particularly around fund administration, governance structures, payment models, and our concerns about compliance-led approaches.

What Foundation Scotland Supports

- Mandating a *value* for community benefit funds, appropriate to different technologies.
- A blended payment model comprising index linked payments linked to installed capacity plus a periodic revenue-based payment for generating technology.
- A balanced and proportionate approach to determining fund areas and for this to involve those communities most impacted by the project.
- Flexibility in fund design and delivery, to reflect community capacity, geography and ambition.
- A 'set-up phase' involving robust community engagement and fund design.
- Improving how communities have access to the right support at the right time to build capacity and achieve optimal community benefit arrangements.
- Review mechanisms to allow funds and governance to evolve as communities change.
- Shared ownership opportunities with support to make informed decisions about financing, governance and risk management.

Our Concerns

We are concerned that a compliance-led regime could become a reductive one.

Developers, particularly new entrants (which are likely to be many, in the face of the Net Zero targets) may understandably reach for whatever process provides the easiest route to achieving a compliant scheme. If the main driver for a developer is compliance, then there is less incentive for the resource intensive process of meaningful engagement between project owner and communities.

Mandating how funds are managed may also create a focus on the type of high volume and/or transactional grant making which lessens the connections between communities' articulated priorities, community engagement and the perceived impact of the fund.

There is also the possibility that defining the role of the fund administrator as scoped in the working paper could create unintended outcomes such as organisations moving into fund administration attracted by either the income generating opportunity without significant experience of community development focused funding; or as a way to control the use of the funds without directly being the beneficiary. New entrant administrators may also reach for minimum delivery of standardised outcomes.

Our key concerns about a compliance led regime are that it could:

- Reduce community agency and limit genuine engagement.

- Encourage box-ticking by developers rather than meaningful, place-based relationships with communities.
- Attract transactional focused administrators with significant power, risking poor outcomes.
- Create larger areas of benefit for the wrong reasons – namely to enable more organisations to bid for funding rather than to enable and facilitate multi-community collaboration and place based, strategic cross-community initiatives.
- Stifle innovation in fund structure, governance, and impact.
- Dilute impact and benefit for communities most affected by low carbon infrastructure in an effort to achieve more equity.
- Overburden smaller or newer projects without proportional gain.

Our Recommendations

1. Mandate the value of in scope technologies but not the process.
2. Introduce a condition in electricity generation licences requiring developers to establish and report on community benefit arrangements, in line with current Good Practice Principles for that technology.
3. Develop a Community Benefit quality marking process, not a regulatory regime, to drive up standards, transparency and continued evolution of good practice.
4. Separate the set-up and administration phases of fund delivery to ensure fit-for-purpose community led fund design.
5. Ensure communities retain power to define fund priorities, governance and impact measurement.
6. Recognise Scotland's existing good practice and endorse the continued evolution of successful, co-produced, collaborative models, more of which are already in development.

Part 2: Further Detail

Community Benefits Scope

Technology Scope: As an experienced fund administrator, what we would observe in relation to the scope of technologies is that they are at significantly different stages of maturity in relation to the provision of community benefits. Any policy framework should take this into account and which the current proposal does not appear to. We think that at this stage, it may be challenging to prescribe how community benefits are delivered at the level of detail proposed and get consistent results across all technologies. One option could be to consider phasing the implementation of mandation across different technologies.

Thresholds: We support the proposed 5MW threshold as it aligns with existing regulatory structures including the Contracts for Difference scheme and avoids burdening smaller projects with disproportionate bureaucratic overheads. However, we emphasise the threshold needs testing against proposed benefit levels to ensure even modest funds have merit.

Co-located Infrastructure: We support treating each infrastructure asset individually but recommend combining funds when the same communities benefit to avoid duplication and ensure straightforward arrangements. Pooled arrangements are already an established mechanism.

Fund Administration and Governance

Our response emphasises a fundamental distinction between the "set-up phase" (involving community engagement, fund design, and governance establishment) and ongoing fund administration. We argue that this is a critical distinction and requires different skill sets; it would be beneficial for these phases to be separated out within any policy framework to ensure fit-for-purpose, community-led fund design.

Set Up Phase: This involves community engagement, fund design (strategy and mechanisms), and establishing governance structures. The set-up phase requires community engagement, development and facilitation skills, an understanding of local context, plus knowledge of what works in community benefits to draw from. This phase should be collaborative, exploring community priorities and designing appropriate distribution mechanisms.

Ongoing Administration: The set up phase differs significantly from tasks relating to ongoing administration involving fund promotion, guidance, grant processing, monitoring, and financial reporting. Ongoing administration should maintain community-led decision-making, with administrators facilitating rather than controlling decisions.

Fund Administrator Role: While broadly identifying with the proposed administrator functions, our response identifies critical gaps including the absence of periodic review requirements (which we regard as key to successful long term arrangements) and concerns about potential bureaucratic reporting burdens. We would also emphasise the value of our own established administrator practice of facilitating rather than making decisions, with community representatives retaining final decision-making authority, ensuring power is retained within the community.

Governance Flexibility: We are not in favour of prescriptive governance requirements, advocating instead that governance models should emerge from the community engagement process. We note that successful arrangements vary significantly based on community capacity, geography, and ambition. Our principle is "form follows function" - establishing governance only after understanding community priorities and intended outcomes. We would propose that establishing appropriate governance should be a collaborative decision during fund set-up and not a developer-only decision.

Payment Models and Fund Design

Payment Methods: The current model of index-linked payments based on installed capacity is more straightforward to administer and provides communities with certainty enabling better planning and impact. We note this facilitates multi-year awards, which are increasingly standard practice and can be key for supporting anchor organisations, which could be constrained under output-based payments. Nevertheless, the principle of a fixed plus variable payment is attractive if the calculation methods of the variable element are clear and transparent to all parties and also deemed to be fair.

Fund Combining and Regional Approaches: The working paper poses a question about seeking to enable combining funds and utilising regional funds. Foundation Scotland regards those as two issues.

We support the principle of combining funds when multiple funds serve single communities or when multiple communities collaborate and this is existing practice in Scotland. Where this is done well, a single decision-making body and administrator is retained, with a harmonised fund name, single set of fund priorities and single ‘front end’ promotion, application and monitoring process for applicants. This makes the process simple and clear in the community. Sitting behind this needs to be a robust process for allocating funds to the correct project owner alongside the ability to report against any specific project owner requirements.

In relation to regionalisation, we would advocate care about defining the term 'region'. We advocate for a balanced and proportionate approach to determining fund areas informed in part by 'how people live their lives' and for this to involve those communities most impacted by the project. This can then enable multi-community collaboration and strategic cross-community initiatives. We would caution against regionalising funds simply to enable more organisations to bid. We also would take the position that community benefit funds should primarily – but not exclusively - be focused on supporting and enhancing places impacted by the infrastructure, to become more sustainable for current and future generations.

If communities are to remain in the driving seat in terms of determining fund priorities and impact, careful consideration would need to be given to the community representation in decision making on arrangements at scale, so that it remains representative. We would suggest that there is a certain operating size at which the nature of a fund changes and that regional funds, certainly at a local authority level, can feel distant from local communities and weaken engagement as tangible delivery of local priorities may appear diluted.

Large Fund Management: Rather than introducing caps on funding, Foundation Scotland advocates for case-by-case assessment considering factors like population size, community connectivity, existing action plans, and decision-making sustainability.

Administrative Costs: We would consider 30% administrative costs excessive. Successful fund arrangements are highly relational, with costs varying based on community developmental stage and local context.

Community Engagement and Capacity Building

Foundation Scotland emphasises the importance of meaningful community engagement going beyond initial consultation, requiring genuine partnership between developers and communities.

Defining Communities: We support a case-by-case approach to defining communities but emphasise that this should occur during the set-up phase with stakeholder engagement reflecting how communities function and live together and varying civil society landscape maturity.

Capacity Building: In our response we sought better clarity between capacity building for effective fund stewardship (within administrator scope), broader community development capacity building for operational delivery of community priorities (requiring specialist agencies) and in community leadership. Our response highlighted the demand on residents for time, energy and expertise to represent communities effectively which has become increasingly sophisticated.

Successful capacity building is resource-intensive and communities entering arrangements for the first time may require intensive support, strengthening the argument for separating set-up from ongoing administration phases. Any policy framework should acknowledge the resource intensive nature of this type of capacity building

Shared Ownership

While this area of work is not currently within the Foundation's scope of support, we note that both shared ownership and community benefit funds seek to deliver social, economic and environmental value. If both elements of community benefit and shared ownership are mandated one possible outcome is that there may be an increasing requirement to put community benefit and shared ownership side by side and for communities to be able to make better informed decisions about what is best for them.

Our position would be that communities must be supported to make informed choices, and that the level of risk and commitment currently involved in shared ownership will not be for every community.

Simply enforcing developers to make an offer of shared ownership on every project will not resolve the barriers to achieving shared ownership.

We identify three primary barriers to shared ownership: financing (significant upfront costs difficult to obtain), governance (requiring incorporated vehicles with volunteer directors managing complex legal/technical issues), and risk (requiring appetite for risk with adequate support to navigate confidently).