

COMMUNITY EMPOWERMENT BILL

1 SUMMARY

- 1.1 The Scottish Government issued a consultation document on the proposed Community Empowerment Bill in November. The deadline for responses is 24 January 2014.
- 1.2 In preparing the cross service response, the Council has engaged with community planning partners and in particular the third sector interface. The interface has a membership of over 2100 community and voluntary sector organisations across Argyll and Bute and set a deadline for consultation on the Bill of 15 January. The Council's response is consistent with the views gathered by the Third Sector in their consultation, which gathered over 460 responses.
- 1.3 The Community Empowerment Bill, alongside public service reform, is central to the Government's Programme for 2013/14. It relates to the following specific areas:
- Community Right to Request Rights in Relation to Property
 - Community Right to Request to Participate in Processes to Improve Outcomes of Service Delivery
 - Increasing Transparency about Common Good
 - Defective and Dangerous Buildings – Recovery of Expenses
 - Strengthening Community Planning
 - Allotments
 - Local Relief Schemes for non-domestic (business) rates (separate consultation)
 - Wider Policy Proposals – Embedding outcomes; subsidiarity and local decision making.
- 1.4 The draft Bill contains a number of detailed sections related to the above. The attached draft Council response indicates broad support for the provisions being made by the Bill. These are detailed in the relevant sections.
- 1.5 The consultation paper contains questions both in narrative and yes/no format. In some questions, there is not a simple yes/no answer, so the associated narrative explains this.

2 RECOMMENDATION

- 2.1 1 That Council consider the draft response to the consultation.
- 2.1 2 That Council agree the response and remit officers to submit the response to the Scottish Government.

3 DETAIL

- 3.1 The Community Empowerment Bill sets an important legislative basis for the future of public sector organisations and communities working together to achieve improved outcomes. Argyll and Bute has a strong track record in partnership working and has a very large number of community and voluntary organisations who play an essential role in community sustainability, wellbeing and prosperity.
- 3.2 The draft Bill is broad ranging and covers issues from the very specific to wider principles. The essence of the Bill is to provide a stronger support mechanism for communities to take ownership of assets and engage with public bodies on service outcomes.

3.3 Community Rights to Request in Relation to Property

This section recognises the benefits of community ownership of assets, in the right circumstances, on positive economic, social and environmental benefits. This section deals with the definition of community bodies, timescales and rights of appeal to facilitate asset transfer. The Council's Third Sector Asset transfer process presents an excellent example of the forward thinking approach that the Council has taken to support communities and third sector organisations to access assets. This framework has been developed in consultation with communities and third sector organisations and supports sustainability of communities through optimising the use of assets for community benefit. Experience from this has informed the response.

3.3 Community Right to Request to Participate in Processes to improve Outcomes of Service Delivery

The section sets out the importance of public sector engagement with communities and service users. It is recognised that Council use a wide range of techniques to engage over the years and excellent practice has been developed. The draft Bill seeks to strengthen communities' voices in shaping the services that affect them. It proposes that communities are given the lead in starting discussions with the public sector, on their own terms, about things that matter to them and strengthen 'bottom up' processes. The draft Bill puts the emphasis on communities/community bodies to explain and provide evidence of how it could contribute to improving the service outcomes. The public body must then agree to that request unless there are reasonable grounds for refusing.

In Argyll and Bute, the public sector bodies work very closely with the third sector partnerships, with communities of interest, with groups of service users and develop, review and improve services on the basis of consultation and engagement. We have worked on co-production of services and use the National Standards for Community Engagement as a basis for our approach.

3.4 Increasing Transparency About Common Good

The draft Bill recognises that common good in Scotland is an important aspect of community and landscape in many areas. Some of these common good assets are owned by local authorities and the draft Bill seeks to improve transparency for communities on the common good asset. The Bill requires that Councils will have a new statutory duty placed on them to establish and maintain a register of all property held by them for the common good. This includes the requirement to consult with community Councils and other community bodies when preparing this register and also about the disposal and use of common good assets. The consultation document recognises the difficulties in framing a statutory definition, which may inadvertently lead to communities losing common good assets. It therefore offers the CIPFA guidance on Accounting for the Common Good a 'useful description of how common good arises', but does not offer a specific legislative definition.

3.5 Defective and Dangerous Buildings

This section recognises that communities can be affected by buildings which become dangerous or defective. The Buildings (Scotland) Act 2003 gives Councils powers to deal with buildings and a mandatory duty to take action to deal with buildings that are 'dangerous'. Currently Councils can only recover costs through normal debt recovery methods, which can be difficult. The draft Bill proposes new sections be inserted into the Building (Scotland) Act 2003 which allow for 'notice of liability for expenses' to be registered in the appropriate property register in relation to a building on which work has been done to aid cost recovery. This reinstates powers that were in the building Scotland Act prior to 2003. Although this provision aids recovery, the fabric of the built heritage in Argyll and Bute alongside the current economic situation means that this will only be one element of a long term, partnership approach to addressing derelict buildings in our communities.

3.6 Improve and Extend the Community Right to Buy

The draft Bill recognises the benefits that the community right to buy has had in empowering communities. The proposal is to extend this to all of Scotland, including urban areas and settlements of 10,000 or more. It considers that there should be a compulsory right to buy for communities and seeks to streamline the process, removing barriers to communities and increasing opportunities. Argyll and Bute has seen a number of successful

community buy outs of varying size and complexity. This has had significant positive impact on communities and its extension is positive.

3.7 **Strengthening Community Planning**

The draft Bill sets out an ambition to amend the core legislation underpinning community planning (Local Government Scotland Act 2003) to place greater emphasis on delivering better outcomes. This legislative change would incorporate the Statement of Ambition for community planning, which was developed by the Scottish Government, COSLA and other partners in 2012. It would put the need for Community Planning Partnerships to deliver outcomes on a statutory basis.

The draft Bill recognises that the current legislation places a duty on Councils to initiate, facilitate and maintain community planning. This has resulted in the Accounts Commission finding that 'Community Planning has also been seen as a Council-driven exercise and not a core part of the day job for other partners who have little incentive to get fully involved'. Whilst this is not the case in Argyll and Bute, the extension of the duty to other partners will strengthen community planning in the long term. The consultation document recognises the important local, democratic mandate that Councils have and that the broad understanding of the needs and aspiration of local communities is critical to effective community planning.

3.8 **Allotments**

Allotments are identified in the draft Bill as an empowering tool for communities, enabling them to have access to land that can provide both health and social benefits. The draft Bill proposes the introduction of definitions of allotment plots as follows:

Allotment Site:

An area of land that is subdivided into allotment plots and which may or may not include communal areas and buildings

Allotment Plot

Options

A: A piece of land on an allotment site between 60-?m²

B: used mainly for the cultivation of vegetables, fruit and flowers for non-commercial use

C: leased to individuals, families, groups of individuals and organisations.

The Council has been working closely with local groups to improve the provision of allotments and recognises their benefits. The draft Bill presents a legislative framework for Councils to manage allotments

3.9 **Local Relief Schemes for Non-Domestic (business) Rates**

This will be consulted upon separately.

3.10 **Scotland Performs – Embedding the Outcomes Approach in Legislation**

This section of the consultation document relates to embedding the outcomes approach in each Community Planning Partnership's Single Outcome Agreement. The Bill would place a duty on Ministers to develop and consult on a set of National Outcomes and would seek to ensure that a full range of views were taken into account. This would strengthen the link between local delivery of outcomes and national impacts/consequences, improve co-ordination and ultimately result in improved outcomes. It would also introduce a complementary duty to report regularly and publicly progress towards these outcomes.

3.11 **Subsidiarity and Local decision Making**

The draft Bill recognises that local people are best placed to make decisions about their future and states that the Government is committed to subsidiarity and local decision making. It recognises that Councils are the level of government closest to the citizen.

The consultation document refers to the European Charter of Local Self Government and states that the Government is bound by treaty through the Council of Europe. The document recognises that there will be further relevant debates on this topic in the near future, particularly including COSLA's commission on local democracy. The paper therefore seeks wider views in this section to inform the debate.

4 **CONCLUSION**

4.1 The Community Empowerment Bill is wide ranging and seeks to strengthen communities' rights in relation to assets, land, property as well as engagement in outcomes. It paves the way for further legislation, particularly in relation to Community Planning, and provides a strong basis for better community empowerment, sustainability and prosperity.

5 **IMPLICATIONS**

5.1	Policy	None at this stage. There may be policy implications from the final Bill which will be brought forward as appropriate by the respective services.
5.2	Financial	None
5.3	HR	None
5.4	Legal	None from this paper

5.5	Equal Opportunities	None
5.6	Risk	None
5.7	Customer Service	None

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ATTACHMENTS

Draft Argyll and Bute Council Consultation Response
Draft Community Empowerment Bill

The full consultation document can be viewed at:
<http://www.scotland.gov.uk/Publications/2013/11/5740>

Consultation on the Community Empowerment (Scotland) Bill

Response Questionnaire

Chapter 3 - Proposals with draft legislation

Please read the draft Bill provisions before you answer these questions. You do not need to answer all the questions in this questionnaire, only answer the questions that you have an interest in. Separate questionnaires are provided for each chapter of the consultation paper.

Please make sure you also return the Respondent Information Form with your response, so that we know how to handle it.

3.1 Community Right to Request Rights in Relation to Property

Please read Part 1 of the Draft Bill pages 1 to 9 before you answer these questions:

Q1 Do you agree with the definition of community body at section 1?

Yes No

Do you have any changes to suggest?

Yes, however there are risks associated with the transfer of assets to an unincorporated body that should be carefully considered before the legislation is finalised.

Q2 Do you agree with the list of public bodies to be covered in this Part at Schedule 1 of the Draft bill page 21)? Yes No

What other bodies should be added, or removed?

The Forestry Commission should be considered as an addition.

Q3 What do you think would be reasonable timescales for dealing with requests, making an offer and concluding a contract, in relation to sections 5(6), 6(2)(c) and 6(6)?

As part of the Argyll and Bute Council Third Sector Asset Transfer Process we have estimated a time span of between nine months and two years from start to finish. We believe that the time span and level of information is dependent on the nature and scale of the asset in question, which can range from a toilet block to a village hall. This time span also allows for the community group to put in place funding, demonstrate both sustainability and that they are not displacing services, and enables them to develop the necessary skills if required. We are required to provide a business case on the asset, ensure that its release fits with our strategic plans and outcomes. In addition, our political approval process requires permission from our local area

committee and full Council.

- Q4 Do you agree that community bodies should have a right of appeal to Ministers as set out in section 8?

Yes No

Are there other appeal or review procedures that you feel would be more appropriate?

It is important that there is a community right of appeal against decisions by any organisation. As presently drafted the Bill does not allow an appeal to Ministers where the relevant authority is the Scottish Ministers or a local authority. The appeal provisions relating to other relevant authorities would seem to be appropriate.

- Q5 What form of appeal or review processes, internal or external, would be appropriate in relation to decisions made by local authorities and by Scottish Ministers?

Where there are existing mechanisms for appeal already in place, these should be used as the basis for appeals.

- Q6 Do you have any other comments about the wording of the draft provisions?

Rather than the existing wording we would prefer: "the public body must agree to the request unless there are reasonable grounds for refusing it". Also conditions should be negotiated rather than imposed.

- Q7 What costs and savings do you think would come about as a result of these draft provisions? Please be as specific as you can.

Initially, there is a cost to both the community group and the Council in the transferring of an asset. The cost to the Council in officer time, legal and other services such as ballot and support to the group has been estimated at up to £20,000. The cost to the community has been estimated by Development Trust Association Scotland (DTAS).

After the transfer there are potential savings to the Council as it will not have to maintain the asset if it is underused or vacant. General savings may be accrued as a result of adaptations and/or upgrades to the asset and increased usage but these are dependent on the asset and difficult to quantify.

3.2 Community Right to Request to Participate in Processes to Improve Outcomes of Service Delivery

Please read Part 2 of the Draft Bill pages 9 to 14 before you answer these questions:

Q8 Do you agree with the definition of community body at section 11?
Yes No

Do you have any changes to suggest?

None.

Q9 Do you agree with the list of public bodies to be covered in this Part at Schedule 2 (Draft Bill page 21)?

Yes No

What other bodies should be added, or removed?

Consider adding the Forestry Commission.

Q10 Do you agree with the description at section 13 of what a participation request by a community body to a public service authority should cover?

Yes No

Is there anything you would add or remove?

The council does not consider that this question is simply answered with a yes/no response.

We agree that dialogue should take place with regard to improving outcomes of Council service delivery. This fits with our service development, planning, review and improvement processes where consultation and engagement with our stakeholders, including third sector bodies and the community, is required.

Participation and dialogue was highlighted as a critical factor in the successful third sector delivery of Council services as part of our recent partnership research study, *Argyll and Bute Local Services Initiative*, supported by HIE and Carnegie UK Trust. This highlighted the need for open dialogue to ensure an understanding of both parties point of view, exchange of knowledge and information, and enhanced working relationships resulting in better services. This study is available at <http://www.argyll-bute.gov.uk/community-life-and-leisure/ablsi-report>

However the following caveat applies: If the community is a

stakeholder in the procurement process then yes, but challenge would have to be with Council as party to the contract. The issue is as always in the contract terms, and the contractual parties will be the Council and another party. As part of the regular monitoring that Council services should be undertaking via the contract and KPIs, any issues that arise from the communities should be addressed under the contract where and if appropriate. The contract management arrangements should ensure any issues that the communities raise with the Council could be addressed if relevant to the service delivery. We would not recommend setting up other structures/ complaints processes beyond those already in place – we believe there is no evidence to suggest that the formal internal complaints process/ SPSO route is not effective.

Q11 Do you agree with the criteria at section 15 that a public service authority should use when deciding whether to agree or refuse a participation request?

Yes No

Are there any other criteria that should be considered?

The list of criteria is appropriate:

- Economic Development
- Regeneration
- Public Health
- Social Wellbeing
- Environmental Wellbeing

Other community benefit should be included.

Q12 Do you have any other comments about the wording of the draft provisions?

None.

Q13 What costs and savings do you think would come about as a result of these draft provisions? Please be as specific as you can.

This is dependent on the number of requests and how expectations are managed and the systems established for this. For each request there will be a resource cost. Outcome improvements, if realised, could result in savings through better targeting and results but this is difficult to quantify and is dependent on the service in question.

3.3 Increasing Transparency about Common Good

Please read Part 3 of the Draft Bill pages 14 to 16 before you answer this question:

Q14 Do you think the draft provisions will meet our goal to increase transparency about the existence, use and disposal of common good assets and to increase community involvement in decisions taken about their identification, use and disposal?

Yes No

What other measures would help to achieve that?

The measures outlined ensure that common good is transparent, monitored and subject to local consultation. It would be helpful to consider the removal of the reference to Sherriff Court approval.

3.4 Defective and Dangerous Buildings – Recovery of Expenses

Please read Part 4 of the Draft Bill pages 17 to 19 before you answer these questions:

Q15 Do you agree that the cost recovery powers in relation to dangerous and defective buildings should be improved as set out in the draft Bill?

Yes No

Q16 Do you agree that the same improvements should apply to sections 25, 26 and 27 of the Building (Scotland) Act 2003?

Yes No

Consultation on the Community Empowerment (Scotland) Bill

Response Questionnaire

Chapter 4 - Detailed Policy Proposals

Please read the draft Bill provisions before you answer these questions. You do not need to answer all the questions in this questionnaire, only answer the questions that you have an interest in. Separate questionnaires are provided for each chapter of the consultation paper.

Please make sure you also return the Respondent Information Form with your response, so that we know how to handle it.

4.1 Improve and extend Community Right to Buy

Q17 The Scottish Government proposes to extend right to buy to communities in all parts of Scotland, where the Scottish Government is satisfied that it is in the public interest. Do you agree with this proposal?

Yes No

Are there any additional measures that would help our proposals for a streamlined community right to buy to apply across Scotland?

Timescales for acquisition could be extended to ensure that the necessary level of research and consultation with the community and other stakeholders takes place, for the development of robust business plans and to allow the development of an appropriate skills base. These elements are dependent on the asset, its location, and the social capital available in each location and there needs to be flexibility for this.

Argyll and Bute Council has provided support for undertaking ballots, but this does have a cost implication.

Q18 Do you think that Ministers should have the power to extend “registrable” land” to cover land that is currently not included as “registrable land”?

Yes No

What other land should also be considered as being “registrable”?

The Council cannot envisage the benefit of further extension of registrable land.

Q19 Do you think that there should be a compulsory power for communities to buy neglected or abandoned land in certain circumstances?

Yes No

What should these circumstances be?

The council does not consider that this question can simply be answered yes or no..

Compulsory purchase orders are complex and challenging to achieve through current CPO powers possessed by the Council and key agencies such as HIE. It is not certain that many communities would have the capacity to undertake such complex and time consuming processes and it is considered that the CPO process needs to be streamlined further before communities are given a role. There is potential for communities in future to have a positive role in tackling neglected buildings or abandoned land. However there is a need to ensure that a CPO is only considered where the building or land is considered to have a blighting (ie adversely impacting on a sense of place or economic investment potential) impact on a wider area and not just adjacent neighbours.

There is potential for local authority powers to be extended to take in a right to acquire abandoned property ie property the owner of which cannot be traced – all reasonable steps to do so having been taken. It would then be open to the local authority to enter into an asset transfer arrangement as per the agreed Council policy and procedure.

Q20 How do you think this should work in practice? How do you think that the terms “neglected” and “abandoned” should be defined?

Definitions would be required in order to facilitate initial action. Work in practice would be dependent on the process put in place above, but should be informed by the procedures/processes already in place for similar activities.

Q21 Do you think that the criteria to be met by a community body in section 38(1) of the Act are appropriate?

Yes No

Do you think that there should be additional criteria? Please set out what changes or additions should be made to the criteria.

None.

Q22 Do you think that the information that is included in the Register of

Community Interests in Land is appropriate?

Yes No

If not, what should that information include?

The information is sufficient to identify the body having the registered interest and the land affected.

Q23 How could the application form to register a community interest in land be altered to make it easier to complete (eg, should there be a word limit on the answers to particular questions)?

There is a varying degree of complexity between the areas of land that communities are interested in, so there needs to be scope to include a wide range of detail to enable an informed decision to be taken. The questions should relate to the provisions of the Act.

Should the questions be more specifically directed to the requirements of sections 36(2) and 38(1) of the Act?

Yes No

Do you have any other suggestions?

None

Q24 Do you agree that communities should be able to apply to register an interest in land in cases where land unexpectedly comes on the market and they have not considered using the community right to buy?

Yes No

Q25 Do you agree that the process to re-register a community interest should be a re-confirmation of a community interest in land?

Yes No

Q26 Do you think that the community body should be asked to show that its application is (1) still relevant, (2) has the support of its "community", and that (3) granting it is in the public interest?

Yes No

Q27 What do you think should be the length of the statutory period for completing the right to buy, taking into account both the interests of the landowner and the community body? Please explain the reasons for your proposal.

As part of the Argyll and Bute Council Third Sector Asset Transfer process we have estimated a time span of between nine months and two years from start to finish. We believe that the time span and level of information is dependent on the nature and scale of the asset in question, which can range from a toilet block to a village hall. This time

span also allows for the community group to put in place funding, demonstrate sustainability and that they are not displacing services and enables them to develop the necessary skills required if appropriate. We are required to provide a business case on the asset, ensure that its release fits with our strategic plans and outcomes. In addition, our political approval process requires permission from our local area committee and full Council.

- Q28 Do you think that some of the tasks within the right to buy (such as valuation, ballot etc) should be rearranged and the timescales for their completion changed in order to make the best use of the time available within the right to buy? Please set out what changes you think should be made and why.

We are aware of the burden placed on community groups with regard to the timescales for developing a robust plan for the asset in order to consult with the community and on the back of this, undertaking the ballot. We would therefore suggest that the timetable for ballot is extended.

- Q29 Do you agree that Scottish Ministers should organise the undertaking of a community body's ballot and pay its costs?
Yes No

If you disagree, please provide your reasons.

The council does not consider that this question can simply answered with a yes/no response.

There are pros and cons to this approach and the solution may be to make funding available for the local authority to undertake this.

- Q30 Should Scottish Ministers notify the ballot result to the landowner?
Yes No

Please explain your reasons.

As the landowner is a party in the process it would assist with transparency if the landowner was sent this information.

- Q31 Do you think Ministers should develop a pro-forma for community bodies to set out their plans for the sustainable development of land and community?
Yes No

Please give reasons for your view.

A pro-forma would be useful to inform applicants what is required in

their plans. If this is used then it should be compatible with funders and local authority forms to ensure that there isn't an additional burden on the community. The pro-forma should not be prescriptive and a business plan should also be accepted so long as it addresses the criteria. The level of information required should always be proportionate to the nature and scale of the asset.

Argyll and Bute Council have a pro-forma for stage one applications to our Third Sector Asset Transfer Process as this contains questions related to the area of land, land use, whether the community has spoken to planning etc. This ensures that the proposal for the asset is viable. Our second stage allows for the submission of a business plan so long as all the criteria are feedback from stage one are addressed.

- Q32 Do you agree that community bodies should be able to define their "community" in a more flexible way by the use of either postcodes, settlement areas, localities of settlements, and electoral wards, or a mixture of these, as appropriate?

Yes.

- Q33 Are there any other ways that a "community" could be defined?

There may be communities of interest identified, but we would emphasise the importance of geographical community and sense of local place in defining the community.

- Q34 Do you agree that other legal entities in addition to the company limited by guarantee should be able to apply to use the community right to buy provisions?

Yes No

- Q35 Do you agree that SCIOs should be able to apply under the provisions?

Yes No

- Q36 What other legal entities should be able to apply under the community right to buy provisions – and why?

Organisations with an asset lock that recycle all profits for the benefit of the community.

- Q37 Do you agree that Ministers should only have to "approve" the changes to Articles of Association for community bodies that are actively seeking to use or are using the community right to buy?

Yes No

- Q38 Do you think that the length of a registered interest in land should

remain as five years or be changed? If it should be changed, how long should it be – and what are your reasons for making that change?

Five years is a reasonable time for the interest to be registered.

Q39 Do you agree that the valuation procedure should include counter representations by the landowner and community body?

Yes No

If you disagree, please give your reasons for your decision.

n/a

Q40 Do you think that there should be a provision to deter landowners from taking the land off the market after they have triggered the right to buy?

Yes No

Please explain your reasons.

It would not be appropriate to have a provision to deter landowners from taking the land off the market. This may be contrary to provisions set out by the ECHR.

Q41 Do you think that there should there be greater flexibility in a community body's level of support for a right to buy in the ballot result than is currently permitted?

Yes No

Q42 Do you think that the ballot result should focus on a sufficient amount of support to justify the community support to proceed with the right to buy the land?

Yes No

If yes, please explain how secured community support should be measured

Fifty percent return on ballot is a high figure which is not matched in electoral turn out. We would support over 50% of the returning ballots in favour of the buy-out, and a flexible rate of return within reason and dependent on the nature and location of the community eg. in an area where there are a large number of second homes/holiday homes it may be more problematic to raise the number of returns required.

Q43 Do you agree that community bodies should be able to submit evidence to Ministers in support of their ballot result where they believe that their ballot has been affected by circumstances outwith their control?

Yes No

Q44 Do you think that Scottish Ministers should be able to ask community bodies for additional information relating to their right to buy “application” which Ministers would then take into account in considering their right to buy “application”?

Yes ✓ No

Please explain your reasons.

Clarification, further information and dialogue is a reasonable part of any process of development to ensure that what transpires is in the public interest.

Q45 Do you think that Ministers should be able to accept an application to register a community interest in land which is subject to an option agreement (on part or all of the land)?

Yes ✓ No

Q46 If there is an option agreement in place, do you think that the landowner should be able to transfer the land as an exempt transfer while there is a registered interest over that land?

Yes ✓ No

Please explain your answer.

If an option exists on the asset when transfer is to take place then the obligations of this option should also transfer. This would seem fair to the parties concerned. The landowner should be able to transfer as the rights will have been created in favour of the option holder prior to the application for registration of the interest and it would appear unfair that a subsequent application for registration could remove those rights.

Q47 Do you think that the prohibition on the landowner from taking steps to market or transfer the land to another party should apply from the day after the day on which Ministers issue the prohibition letter rather than the day when the owner/heritable creditor receives the notice?

Yes ✓ No

Please explain your answer.

A party could not be subject to prohibition from doing something if they were not yet aware that it had been prohibited.

Q48 Do you agree that public holidays should be excluded from the statutory timescales to register a community interest in land and the right to buy?

Yes ✓ No

Q49 Do you agree that where a landowner makes an “exempt” transfer, this should be notified to Scottish Ministers?

Yes No

If you disagree, please provide reasons for your decision.

N/A

Q50 Do you agree that community bodies and landowners should notify Scottish Ministers of any changes to their contact details (including any registered office)?

Yes No

Q51 Do you think that Ministers should monitor the impact of the community right to buy?

Yes No

How do you think that monitoring should be undertaken and what information should Ministers seek?

We believe that monitoring should be based on the outcomes defined in the community business plan and for ensuring that the asset is continuing to be used for community benefit. Information for this monitoring should make use of the community group’s reports to funders and thus ease the burden of reporting.

Should the monitoring process be a statutory requirement, including provisions for reporting?

Yes No

4.2 Strengthening Community Planning

Q52 What are your views on our proposals for requiring a CPP to be established in each local authority area, and for amending the core statutory underpinning for community planning to place stronger emphasis on delivering better outcomes??

The Council is fully committed to the requirement for a CPP to be established and to place stronger emphasis on delivering better outcomes.

Q53 What are your views on the core duties for CPPs set out above, and in particular the proposal that CPPs must develop and ensure delivery of a shared plan for outcomes (i.e., something similar to a Single Outcome Agreement) in the CPP area?

The Council is fully committed to the core duties for CPP as set out. In particular the Council recognises the central importance of the development and delivery of a shared plan for outcomes in the CPP area. This is well underway in Argyll and Bute where partnership working is very well

established. We would seek the support of the Scottish Government to ensure that the SOA is also reflected clearly in the priorities set at Government level for public sector agencies to deliver on outcomes identified at the local, CPP level.

Q54 Do the proposed duties of the CPP support effective community engagement and the involvement of the third and business sectors?

Yes No

What other changes may be required to make this more effective?

Engagement and involvement with the third and business sectors is paramount. This could be improved by recognising the role of, for example, the third sector interfaces that carry out this role as their core business and are key players in the CPP structures.

The Council notes that the national standards for community engagement are not referred to although these provide an important framework for effective community engagement. Reference to adhering to these standards would be a positive addition, particularly relating to ensuring feedback on consultation.

Communities require sufficient capacity to engage effectively with public bodies. In areas where that capacity does not exist or is not adequate, Community Planning must have a role in capacity building. There is a need to provide community capacity building support for those communities which may not currently be able to access the opportunities afforded by the new legislation.

For example, support to strengthen the skills, abilities and confidence of people and community groups to take effective action in the development of their communities is essential. Without this support, the opportunities of the Bill may not be enjoyed equitably and some communities will benefit while others may not, particularly those communities which are most marginalised, and in remote, island and rural locations, which is particularly the case in Argyll and Bute.

Q55 How can we ensure that all relevant partners play a full role in community planning and the delivery of improved outcomes in each CPP area? Do the proposed core duties achieve that?

Yes No

What else might be required?

We cannot ensure that respective partners play a full role, but we can build strong partnership relationships to ensure that the delivery of outcomes is the priority, irrespective of the inevitable separation of duties. Clear and

positive examples of this as an effective approach can be seen in the Argyll and Bute Integrated Children's Services Plan, which as a multi-agency plan will deliver jointly on improved outcomes for Argyll and Bute's young people.

Q56 What are the respective roles of local elected politicians, non-executive board members and officers in community planning and should this be clarified through the legislation?

There is a clear role for community and political leadership in community planning and the delivery of outcomes. The democratic accountability of local government is essential to ensuring that the CPP and SOA deliver on outcomes and are seen to deliver on outcomes.

There is not a requirement for legislative clarification of respective roles and responsibilities.

Q57 Should the duty on individual bodies apply to a defined list of public bodies – if so, which ones? Or should we seek to take a more expansive approach which covers the public sector more generally?

There are core partners upon which the duty should apply. These have already been defined in relation to community planning. Each CPP area is complex and unique, with different challenges and different partners and stakeholders. It is essential that a list does not become exclusive. There has to be flexibility for each partnership to define its partners within an expansive approach.

Q58 Local authorities are currently responsible for initiating, facilitating and maintaining community planning. How might the legislation best capture the community leadership role of Councils without the CPP being perceived as an extension of the local authority?

In Argyll and Bute, the Management Committee is chaired by partners on a rotational basis, which allows for the Council to lead and facilitate, but for other partners to drive and guide. There are also examples of Council committees being chaired by external appointees. As long as there are clear roles and responsibilities set out and agreed by the partnership, these can be filled as appropriate by partners and the process is not then viewed as an extension of the local authority.

As part of this training in partnership working is essential for all parties.

Q59 How can the external scrutiny regime and the roles of organisations such as the Accounts Commission and Auditor General support the proposed changes? Does this require changes to their powers or functions?

There is no change required. Occasional review and guidance, such as the recent guidance by the Accounts Commission on improving community planning is useful and straightforward. It gives clear guidance and a framework for implementing improvements.

Q60 What other legislative changes are needed to strengthen community planning?

There are no further legislative changes needed to strengthen community planning. The main requirement for effective community planning is good partnership working skills and the goodwill to work closely together in the interests of our communities.

4.3 Allotments

Q61 Do you agree with the proposed definition of an allotment site and allotment plot?

Yes No

How else would you suggest they be defined?

The council does not consider that this question can be answered simply yes or no.

Size has not been used in earlier legislation and its inclusion here does not appear to present any real benefits.

Q62 In order to include all existing allotments in the new legislation they must fit within the size range. What is the minimum and maximum size of one allotment plot in your area/site?

See above

Q63 Do you agree with the proposed duty to provide allotments?

Yes No

Are there any changes you would make?

The proposed changes will strengthen the existing duty and this is likely to have some resource implications.

Do you agree with the level of the trigger point, ie that a local authority must make provision for allotments once the waiting list reaches 15 people?

Yes No (see response below)

Q64 Do you prefer the target Option A, B or C and why? Are there any other target options you wish to be considered here? Do you agree with the level of the targets?

A – waiting list of < 3 years

B – waiting list no more than 50% current number of plots

C – combination of options A and B

This question cannot be answered simply yes/no above.

It is not clear why the 15 person waiting list provision should apply only where there are no local authority allotments. It could also apply where existing allotments don't meet demands of waiting lists. From a legal perspective it is good that the measure of demand is objectively ascertainable.

Q65 Do you agree with the proposed list of local authority duties and powers?

Yes ✓ No

Would you make any changes to the list?

No further changes proposed.

Q66 Do you think the areas regarding termination of allotment tenancies listed should be set out in legislation or determined by the local authority at a local level?

Legislation

Determined by local authority ✓

Q67 Are there any other areas you feel should apply to private allotments?

None

Q68 Do you agree that surplus produce may be sold?

Yes ✓ No

If you disagree, what are your reasons?

Surplus produce is in some instances currently sold to assist the allotment associations' fundraising. There would appear to be no reason to prevent this, subject to the normal provisions re public health etc.

Q69 Do you agree with the proposed list of subjects to be governed by Regulations?

Yes No

Would you make any changes to the lists?