

**COMMUNITY EMPOWERMENT (SCOTLAND) BILL
CALL FOR WRITTEN EVIDENCE**

1.0 EXECUTIVE SUMMARY

- 1.1 The purpose of this report is to consider the proposed response to the Local Government and Regeneration Committee call for written evidence as part of its Stage 1 consideration of the Community Empowerment (Scotland) Bill, which was introduced into the Scottish Parliament on 11 June 2014.
- 1.2 The Council has previously responded to consultations in respect of the Bill, most recently in January of this year (attached at appendix 2).
- 1.3 Organisations and individuals are invited to submit written evidence on the following specific questions by 5 September 2014 :-
1. To what extent do you consider the Bill will empower communities, please give reasons for your answer?
 2. What will be the benefits and disadvantages for public sector organisations as a consequence of the provisions in the Bill?
 3. Do you consider communities across Scotland have the capabilities to take advantage of the provisions of the Bill? If not, what requires to be done to the Bill, or to assist communities, to ensure this happens?
 4. Are you content with the specific provisions in the Bill, if not what changes would you like to see, to which part of the Bill and why?
 5. What are your views on the assessment of equal rights, impacts on island communities and sustainable development as set out in the Policy memorandum?
- 1.4 Members are asked to approve the proposed response set out at section 4.4 of this report, and that it be submitted to the Scottish Parliament's Local Government and Regeneration Committee by the 5th September 2014 deadline.

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2.0 INTRODUCTION

- 2.1 The Scottish Parliament's Local Government and Regeneration Committee launched a call for written evidence on 26 June 2014 as part of its Stage 1 consideration of the Community Empowerment (Scotland) Bill, which was introduced into the Scottish Parliament on 11 June 2014 (attached at appendix 1).
- 2.2 The Council has responded to previous consultations on the Community Empowerment (Scotland) Bill, the most recent being in January 2014, following approval from Council (report attached at appendix 2).

3.0 RECOMMENDATIONS

Members are asked to;

- 3.1 Approve the proposed response set out at section 4.4 of this report; and
- 3.2 That it be submitted to the Scottish Parliament's Local Government and Regeneration Committee by the 5th September 2014 deadline.

4.0 DETAIL

- 4.1 The Scottish Parliament's Local Government and Regeneration Committee launched a call for written evidence on 26 June 2014 as part of its Stage 1 consideration of the Community Empowerment (Scotland) Bill,
- 4.2 Organisations and individuals are invited to submit written evidence to the Committee setting out their views on the provisions of the Bill. Those submitting evidence should feel free to address any, or all, of the Policy issues contained in the Bill. Specifically, they are requesting written submissions to the 5 questions detailed in section 4.4 below.
- 4.3 In preparing a response to this call for evidence, views have been sought from services across the Council, particularly from Community Services and Customer Services due to the main areas of interest contained within the Bill (e.g. Community Planning arrangements, Property/Assets, and non-domestic rates).

4.4 Detailed below is the proposed response, based on the feedback received from Services;

1) To what extent do you consider the Bill will empower communities, please give reasons for your answer?

Where empower is giving someone the power or authority to do something then the Bill gives this to an adequate extent for the areas set out that the Bill addresses subject to the concerns raised in response to Q2-5. Where empower is making someone stronger and confident to control their life and claim their right then the Bill does not adequately address this, as the Bill does not take due consideration of the resource required to enable people in communities and community groups, as defined in the Bill, to become stronger and confident in order to access the rights being provided. The Scottish Government should consider this aspect of empowerment and the costs and resources required in order to fully realise the potential of the Bill. We would suggest that there is a need for more work to explore these implications rather than the immediate process implications so to address risks of inequality in the access to rights outlined in this Bill. Currently the Bill only addresses part of the full meaning of empowerment.

Currently the Community Right to Buy legislation requires the Community Group to conduct a ballot with the local community. The new proposals indicate that Scottish Ministers will appoint a balloter who will undertake the ballot on behalf of the community and this will be paid by Scottish Ministers. The Bill gives greater opportunity to communities by increasing the ballot time from 28 days to 12 weeks. In addition, the Bill affords communities greater time to conclude a sale. This increases from 6 – 8 months. The required evidence arising from a ballot to justify a sale is reduced within the Bill. The proposed provisions simply refers to a proportion sufficient to justify a sale to a community being required cast votes in favour whereas at present a voting turn out of 50% or greater is required or less than 50% but with a significant proportion of those who did vote being in favour.

The Bill also contains a proposal for Community Groups to apply for land which is deemed to be neglected or abandoned although the owner of the land does have the right to make a case for any future development proposals to be taken into account. In addition, the Bill gives community bodies the right to make requests for the transfer of assets and envisages that these should be granted unless it can be demonstrated that reasonable grounds exist for not doing so. It appears that the community group making the request does not require to provide justification to demonstrate what benefits would accrue to the community if the asset was transferred. There are particular issues around this from the Council's point of view. Legitimate community aspirations need to be balanced against, in the case of publically owned assets the need to secure both land, and capital receipts, to enable future developments.

2) What will be the benefits and disadvantages for public sector organisations as a consequence of the provisions in the Bill?

Possibly the principal disadvantage to public authorities would arise from the additional time afforded to conduct a community ballot and also to conclude a sale. In respect of the former there are potential financial implications for the local authority in maintaining an asset for the duration of the ballot period, which is not beneficial. The latter provision could hold up wider marketing of an asset. The Bill also appears to grant community groups the right to acquire land that they deem to be abandoned and also on an unsolicited basis, to make request for the transfer of assets. From a local authority perspective, this could be a detrimental step particularly if there is no requirement on the part of the community to produce a business case to demonstrate the benefits that would arise to the wider community from the transfer.

Ultimately, such an approach could carry the risk of the community being unable to sustain the asset. In addition, the Bill requires to carry a requirement for the Council to provide allotments if the number of people requesting one exceeds 50% of the number of allotments available or if there are more than 15 people on a waiting list. Local authorities are also obliged to make regulations in relation to allotments and must prepare a food growing strategy together with an annual allotment report. This could prove to be a considerable burden to local authorities both in terms of land assembly and the requirement to allocate officer time to these additional tasks.

The language in the Bill is also confusing and will disadvantage organisations trying to engage communities for example in Community Planning, if the Bill is using terminology such as Local Outcomes Improvement Plan. Can clarity please be given to what is meant by this in the Bill? Is this another term for delivery under Single Outcome Agreement? The Bill could set expectation that a Local Outcomes Improvement Plan is to be developed separate to development of delivery under Single Outcome Agreements and it is not beneficial for any public sector organisation for there to be confusion with this.

3) Do you consider communities across Scotland have the capabilities to take advantage of the provisions of the Bill? If not, what requires to be done to the Bill, or to assist communities, to ensure this happens?

Communities across Scotland are likely to be encouraged by the provisions of the Bill but in many instances, depending on the nature and complexity of the asset in question, they are likely to require additional professional support to develop business cases or funding applications. Future sustainability of large scale assets is also of critical importance and although community activists can support the initial thrust to secure and manage an asset, it is questionable whether this can be sustained in all instances particularly when key individuals move away from an area or their ability to continue to support the project diminishes over time. Therefore, particularly with respect to larger and complex transfers of assets, the long term sustainability of proposals should be investigated thoroughly at the outset.

From a community planning perspective, it would be beneficial to have reference to the National Standards of Community Engagement as this guidance enables communities and those working with communities to understand best how to identify what provisions in the Bill a community may

wish to take forward.

There is also 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. 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 and rural locations. Resource is required for this and this must come through Scottish Government funding to those working with communities.

4) Are you content with the specific provisions in the Bill, if not what changes would you like to see, to which part of the Bill and why?

The provisions of the Bill appear to give communities greater encouragement to apply for the transfer of assets. However, the transfer is only the beginning of their task so alterations should be made to ensure that the long term sustainability of individual projects is more adequately taken into account.

The Bill must be clear on its impact to existing legislation. For example, it is not clear in what way the reference to partners in community planning impacts the provision for the council to be the lead in the CPP as laid out in the Local Government Act 2003. It would also be beneficial for the definition of terms such as community planning in section 4.2 to be written in a way that is meaningful and understandable for the public.

5) What are your views on the assessment of equal rights, impacts on island communities and sustainable development as set out in the Policy memorandum?

In respect of the equality impact assessment that has been carried out, which concludes that the Bills provisions are neither directly or indirectly discriminatory in respect of age, disability, race, religion or belief, sex, sexual orientation or gender reassignment, it would be useful for this to be published for viewing.

The equality duty has been included when considering asset transfer and participation requests, but does not appear to be applied for the other parts of the bill – why is this?

Island Communities – given the recent publication of the report “Empowering Scotland’s Island Communities”, it would be useful to understand how much of the bill has been “island proofed”, and to understand which aspects of the bill will produce a differential impact on the islands.

There is limited consideration of the Bill on the various elements of Scotland’s sustainable development (e.g land use/environment) and it would be useful if a more comprehensive assessment of the impact was provided.

Specific comments in respect of Part 8 – Non Domestic Rates

This creates a power to allow local authorities (as rating authorities) to reduce or remit business rates within our areas in any financial year from 2015-16 onwards as a local rates relief scheme. Any such rates relief offered has to be fully funded by the local authority. In creating the scheme, the local authority must have regard to the interests of persons liable to pay council tax. This is because they will be the ones who pay for any such relief. CoSLA has previously welcomed the Scottish Government's intention to create this power. This came out of the earlier consultation entitled "Supporting Business – Promoting Growth: Business Rates Consultation" and this was set out in the Scottish Government response issued on 4 September 2013. Argyll and Bute Council responded to this consultation and were of the view that there should not be any flexibility to introduce local relief schemes as NDR is a national tax which local government collects on behalf of the Scottish Government and as such there should be very limited difference in how this is levied across Scotland. We therefore do not welcome these proposed new powers. They will mean that we are subject to many more calls for us to offer rates relief e.g. in response to roadwork disruptions. However it will usually be difficult to fit individual circumstances into an overall "scheme" - which is what is required under this new legislation.

5.0 CONCLUSION

- 5.1 The Local Government and Regeneration Committee has launched a call for written evidence as part of its stage 1 consideration of the Community Empowerment (Scotland) Bill. It is proposed that the draft response detailed at section 4.4 of this report is submitted by the 5th September 2014 deadline.

6.0 IMPLICATIONS

- 6.1 Policy – none at present
- 6.2 Financial – none at present
- 6.3 Legal – none at present
- 6.4 HR – none at present
- 6.5 Equalities – none at present
- 6.6 Risk – none at present
- 6.7 Customer Service – none at present

Douglas Hendry
Executive Director - Customer Services
1 July 2014

APPENDICES

Appendix 1 – Community Empowerment (Scotland) Bill
Appendix 2 – Community Empowerment (Scotland) Bill – Report to Council 23
January 2014