

**FINANCE COMMITTEE CALL FOR EVIDENCE**  
**COMMUNITY EMPOWERMENT (SCOTLAND) BILL;**  
**FINANCIAL MEMORANDUM SUBMISSION FROM**  
**THE SCOTTISH PROPERTY FEDERATION**

1. The Scottish Property Federation (SPF) is a voice for the property industry in Scotland. We have some 150 corporate members with interests in Scottish real estate including; property funds, major institutional investors, lenders, developers, landlords of commercial and residential property, and professional property consultants and advisers.

2. We are pleased to submit comments to the Finance Committee on the Financial Implications of the Community Empowerment Bill. We recognise that our views will be made public and shared with other authorities at the Committee's discretion.

3. The intention of the Bill is to seek to empower communities in a number of areas and crucially, through enhanced rights to acquire ownership or control of properties through community bodies. We believe that the best way to keep properties, particularly listed properties, in good maintenance is by their continued use. There are circumstances and situations where it is preferable for a community body to do this and we believe the Bill will support this aspiration. However, there are also circumstances where the rights to be enhanced under the bill may inhibit larger scale development and investment and it is in these circumstances that we hold reservations about the measures to be brought forward.

4. We will also explain in our comments that we believe a number of fiscal questions for public authorities have not been fully answered by the Bill's financial memorandum and we seek to draw these points to the Committee's attention.

**Engagement on the Bill**

5. We have been involved in a number of stakeholder groups over 2012 to 2014 related to the Community Empowerment proposals. In addition we met the Bill team officials separately. These meetings were generally concerned with policy concepts however and any reference to financial assumptions would have been only general in nature.

**Costs**

6. There will certainly be costs for our members although it is difficult to quantify these costs. It is also difficult to quantify the cost of events that don't happen or are delayed in occurring because of the implications of Community Right to Buy. The limited take up and more rural location of the existing CRTB means that this will be a new issue for many within our membership.

7. Additional costs in terms of both time and money will be incurred through the processes of additional due diligence and indeed potential loss of time where rights are sought over land and property that is due for disposal. We discuss elsewhere the uncertain position of public bodies other than Ministers and local government, where we think there may be greater costs than those identified in the memorandum. It is possible also that where funding or investment is available on a limited basis and the intended asset is subject to an application for CRTB then any delay incurred may result in a financial loss.

8. Similarly we question whether the government's assumption of only 5-10 applications per year will remain credible with the expansion of CRTB to urban areas. If there are considerably more applications than anticipated by the Bill team then we believe the costs for the Scottish Government will be much higher.

### **Crichel Down**

9. Aside from an oblique reference under paragraph 67 to compensation for former owners of land there is no reference to how the expanded CRTB inter-relates with the Scottish Government's policy guidance on what is known as the Crichel Down rules. This is where land has been compulsorily purchased by a public authority but is then surplus and subject to disposal by the public authority in question. In these circumstances it is government policy for the previous owner to have right of first refusal. We do not see any assessment of the costs of ensuring this guidance is followed or indeed, provision made for where challenges might be made by former owners to the (erroneous) sale of properties to CRTB.

10. In the context of larger scale development sites, potentially involving a number of separate properties it will also be an issue and potential cost for developers and possibly public sector bodies who will not possess the same rights to reject a request over land as Scottish Ministers and Local Authorities. For example, the NHS estates (we need only think of the potential for CRTB of a sight such as Bangour Village) or Historic Scotland's own estate. HS is of course transforming into an NDPB to be called Historic Environment Scotland and will be at arm's length from Ministers. We question therefore if this means HES will no longer have the same level of protections under the Community Empowerment Bill as had previously been envisaged when they were an Agency of Government? If so, there could be significant financial implications for the HES estate.

### **Wider Issues**

11. The Bill introduces a number of further rights including that of asset transfer of public sector buildings owned or leased. We have questioned in evidence to the lead committee (LGR), how this will operate for public authorities who lease properties from private landlords and indeed for publicly supported bodies such as Urban Regeneration Companies and ALEOs (Arm's Length External Organisations).

12. The Bill also provides the opportunity for local rate reliefs to be introduced by local authorities. The Scottish Government is not intending to support these initiatives via funding so it will be for local government to consider. There are examples of local authorities seeking to spread the cost of such relief with local landlords – indeed SPF presented evidence of such a measure to the Scottish Government in the course of the Empty property legislation passed by the parliament

in 2012-13. If such measures for local rate relief do come to be enacted by the Scottish Parliament then we hope that they will benefit from some support from the government. We believe also that any analysis of the financial implications should consider any possible support from landlords and the benefit of any businesses supported.

13. We would also question what happens if a CRTB successfully purchases via CRTB from, for example, a public sector authority but then two or three years later finds it is unable to continue to hold the property and needs to sell the asset on but is unable to. A public authority may well be obliged to resume ownership and we do not see that this has been factored into the financial implications of CRTB or asset transfer.

### **Summary**

14. We would like to be clear that we do not oppose the ability of community bodies to seek to bring back into use unwanted or surplus properties for the benefit of a local enterprise. Our main concern is that the enhanced scope of CRTB and by extension asset transfer may inhibit larger scale and complicated investment in development land in a manner that has not hitherto been an issue under the existing CRTB rights. We would also suggest that although the protections extended to local authorities have grown in the course of the consultation process, there remain a number of public authorities with significant estates of a nature that may well be subject to CRTB or asset transfer. The financial implications of a loss of control over these sites may be significant for public authorities seeking to achieve their effective disposal. Finally we believe the cost in both time and money of a challenge under the Crichton Down rules must be considered as part of the Bill's financial memorandum. We find it strange that little mention of this rule has been seen in the Bill and we believe it is important that inter-relationship of CRTB to Crichton Down is considered for the purposes of the Bill and the accompanying financial memorandum.

We would be pleased to explain our comments in greater detail at your discretion.