INTRODUCTION

1. The Scottish Government introduced the Community Empowerment (Scotland) Bill to the Scottish Parliament on 11 June 2014. The Government says that its Bill will:

   - Empower community bodies through the ownership of land and buildings and strengthen their voices in the decisions that matter to them; and
   - Support an increase in the scale and pace of public service reform by cementing the focus on achieving outcomes and improving the process of community planning.

2. The Bill has been preceded by two Government consultations, in 2012 and 2013/14, and subsequently has been sent for scrutiny to the Local Government and Regeneration Committee, which has issued a Stage One Call for Evidence, with a deadline of Friday 5 September 2014.

3. East Ayrshire Council has responded to previous consultations on the proposed Community Empowerment (Scotland) Bill, the most recent being in January 2014, following approval by Cabinet on 14 January 2014.

4. The following information provides East Ayrshire Council’s response to the five questions, which the Committee has asked to be addressed.

CALL FOR EVIDENCE

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

   East Ayrshire Council supports the principle set out in the Community Empowerment (Scotland) Bill, which provides a positive step in providing people with more confidence that their views are heard, and that they can influence what happens in their community and contribute to delivering change.

5. In East Ayrshire, through Community Planning, good progress has been made in empowering local people and involving them in planning and decision making; however, the Council and its Community Planning Partners recognise that much more needs to be done to address the recommendation of the Christie Commission to build public services around people and communities, their needs, aspirations, capacities and skills, and work to build up their resilience.

6. As a result, we are continuing to build on existing arrangements for the delivery of community based services, which ensure that we focus on empowering our communities and neighbourhoods, and the need to move away from a culture of dependency to social integration, enhanced community cohesion, co-production
and the promotion of local ownership, responsibility and participation. In East Ayrshire, the National Standards for Community Engagement have served well in ensuring the quality of engagement with communities and consideration should be given to reintroducing them into the Bill.

8. The Bill provides an enabling legislative framework to support community participation in setting priorities and in the design and delivery of local services. It would be our view that the Bill is not intended to be prescriptive and provides a framework to help communities to realise the outcomes which matter to them. It will be important for Community Planning Partnerships (CPPs) to have flexibility locally to agree how communities are involved in or, can best support improving local outcomes for their communities through Community Planning.

9. The proposals in respect of the ‘Community right to request to participate in processes to improve outcomes of service delivery’ support participatory democratic processes and the empowerment of communities, and place their right to be heard firmly in a legislative context.

10. East Ayrshire Council recognises that community ownership of assets can be a valuable tool in empowering communities, building the capacity of local citizens and inspiring others to create locally responsive solutions to local needs. The proposed extension to the community right to buy provisions and amendments to the procedures contained in Part 2 of the Land Reform (Scotland) Act 2003 will assist in this regard.

11. East Ayrshire Council is committed to community asset transfer and has since the adoption of its Community Asset Policy in October 2012 and the establishment of a dedicated Community Asset Transfer Team in July 2013 authorised seven transfer applications and received expressions of interest in pursuing transfer from more than 100 community groups or voluntary organisations. The introduction of a statutory framework in this regard will enable the Council to build on its existing policy and processes.

12. By creating a number of statutory rights for community bodies, and corresponding duties on public authorities, the Bill will provide a degree of consistency and a supportive legal framework to underline the Scottish Government’s expectation that all public authorities will support community empowerment and participation.

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

National Outcomes

13. The shared Statement of Ambition (15 March 2012) makes clear the commitment of the Scottish Government, COSLA and representatives of CPPs to retain and develop Community Planning and Single Outcome Agreements (SOAs) as the foundation of an outcomes based approach to public services in Scotland.

14. The development and implementation of SOAs in the context of Community Planning have provided the foundation for working towards jointly agreed outcomes. In moving forward, there has been a clear commitment by the Scottish Government and CPPs to SOAs, as the key framework for the delivery of
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outcomes, to ensure that all partners are focused on one set of key local outcomes, for which they are jointly accountable, linked to national outcomes.

15. Within the overarching framework of the National Outcomes Framework, a range of local outcomes have been agreed with the full involvement of local communities. This is based on the understanding that local partners and local people understand their communities best and are able to identify the priorities for local areas.

16. The proposal to place a duty on Scottish Ministers to consult on and publish a set of outcomes that describe their long term strategic objectives for Scotland would strengthen the link between locally agreed outcomes identified in SOAs, within the context of Community Planning, and the national outcomes set out in a national outcomes framework. Improved co-ordination and collaboration between national and local government and CPPs would result in the development of a national outcomes framework founded on a wide range of priorities and outcomes agreed by Scotland’s communities, resulting in improved outcomes for communities.

17. A complementary duty on Ministers to report on and publicly progress towards these outcomes would not only ensure transparent public reporting as a key element of scrutiny and accountability but also provide clarity for communities on how delivery of outcomes at local level has impacted at national level.

18. East Ayrshire Council welcomes the move to place the requirement to plan for outcomes on a statutory basis. It will be important, however, that involvement in this process allows consultation and engagement across CPPs and other key stakeholders to provide a range of opinion on priorities and expectations; otherwise, this could result in a centrally driven process by the Scottish Government.

Community Planning

19. East Ayrshire Council welcomes the proposals being put forward by the Scottish Government, which will further strengthen Community Planning Partnerships by clearly laying out the core duties on CPPs and all relevant Partners in the local authority area.

20. Within East Ayrshire, our Community Plan, which acts as the Council’s Corporate Plan, is recognised as the sovereign planning document for the local area, providing the overarching strategic policy framework for the delivery of services by all the Partner agencies. Our Single Outcome Agreement is the associated performance reporting framework for the East Ayrshire area.

21. The National Statement of Ambition and the associated Agreement on Joint Working on Community Planning and Resourcing are very clear about the expectations on CPPs in driving forward service integration, increasing the focus on early intervention and prevention, and securing continuous improvement in public service delivery. In this context, clarity on the core duties of CPPs and all participating Partners is welcomed.

22. A statutory underpinning for the SOA or similar process will support us to build and strengthen the work which has been taken forward locally with Partners and communities in respect of the SOA and ensure a focus on a range of challenging issues, including the joint resourcing of activity to achieve agreed outcomes; robust
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scrutiny and challenge of Partners’ contributions to the achievement of outcomes; and the management of performance across the Partnership.

23. The proposed duties of the CPP support effective community engagement and the involvement of the third and business sectors and will build on the existing robust arrangements within the East Ayrshire CPP.

24. Starting from the premise that communities should lie at the heart of Community Planning, East Ayrshire Council and its Community Planning Partners have a joined up and systematic approach to community engagement, which ensures that partners work together to understand the challenges faced by local communities and promote and support the involvement of local people at both the strategic and local level.

25. Good progress has been made in empowering local people and involving them in planning and decision making; however, the Council and its Community Planning Partners recognise that much more needs to be done to address the recommendation of the Christie Commission to build public services around people and communities, their needs, aspirations, capacities and skills, and work to build up their resilience.

26. As a result, we are continuing to build on existing arrangements for the delivery of community based services, which ensure that we focus on empowering our communities and neighbourhoods, and the need to move away from a culture of dependency to social integration, enhanced community cohesion, co-production and the promotion of local ownership, responsibility and participation.

27. This work includes an increasing emphasis on working with community groups to build the capacity of community representatives and groups, and to explore ownership of local facilities and the establishment of community trusts.

Participation Requests

28. The proposals in respect of the community right to request to participate in an outcome improvement process are designed to support participatory democratic processes and the empowerment of communities, and place their right to be heard firmly in a legislative context; however, they appear overly bureaucratic. The cross reference to the new proposals in relation to engaging communities in Community Planning is important in ensuring that the request to participate does not stand alone and that engagement with community views is seen not only as the responsibility of communities but also as a duty on public sector authorities to initiate participatory processes of community engagement.

29. However, while the Council and its Community Planning Partners continue to support the engagement of local people and involving them in planning and decision making, we have concerns regarding the volume of participation requests that could potentially be made by community participation bodies to participate in an outcome improvement process, and the associated capacity issues and resource implications around managing this process. Community Planning Partnerships should have flexibility to develop locally responsive solutions to engagement structures and procedures within a legislative context.
Community Right to Buy

30. As indicated above the extension of the Community Right to Buy provisions and the streamlining of procedures are welcomed by the Council particularly those that relate to the definition of community. Again whilst the Council appreciates the need for communities having a role in taking on responsibility for abandoned properties it considers that that outcome, if it is to be achieved on a sustainable basis through the introduction of specific rights, will result in a requirement for additional capacity building and ongoing support to be provided from the Council.

Community Asset Transfer

31. Whilst the introduction of a statutory framework will allow the Council to build on its existing policy framework, the terms of the legislation, and in particular the initial onus on community groups to identify terms and conditions, will require the processes within that framework to be re-evaluated and reviewed. It is our experience that community groups are not in a position to identify terms and conditions and prefer a framework which places this responsibility of the local authority. If the desired outcome is to be achieved additional capacity building will be required which will have a resource implication for the Council.

32. Whilst the Council welcomes, in terms of Section 53 of the Bill, a clearer definition of those groups which will be eligible for statutory transfer, it is felt that the requirement for 20 members, both in the case of a company or a Scottish Charitable Incorporated Organisation may be difficult to achieve particularly in a number of our more rural communities.

Common Good

33. East Ayrshire Council welcomes the opportunity provided by the Bill to provide clarification on the law surrounding common good and has already carried out a common good title audit and maintains a separate record of its common good assets. Whilst it is appropriate for communities to be aware of the common good assets held by a Council the introduction of a statutory consultation framework particularly in the absence of a definition of common good property will have resource implications for the Council particularly given the proposal that communities should have the option to identify assets which they consider to be part of the common good.

Allotments

34. The Council has responded to allotment demand by adopting an Allotment Strategy. This has sought to extend community participation by allowing the Council to act as facilitator in the management of allotment gardens and allotment service by promoting site self-management through allotment associations. In this regard, the Council’s recent experience has indicated that there is limited demand for allotments within its area which can be met from existing provision from allotment associations. It believes therefore that the proposed duties and requirements set out within the Bill will have resource implications to achieve the desired outcomes when there is a limited demand for allotments within its area.

Non-Domestic Rates
35. Under Part 8 of the Bill, we note that there will be a new power to allow the Council to create a localised relief scheme for Non-Domestic Rates to develop local responses to local issues and this is to be welcomed.

36. However, the introduction of a local relief scheme will be expected to run alongside existing national schemes (for example, the Small Business Bonus Scheme) and billing will still be calculated using national poundage rates. This will place the financial burden of the local relief scheme on the Council with the total contribution to the National Pool being unaffected by those local schemes. There is therefore concern that some of the national schemes currently in place (for example, Small Business Bonus Scheme, Fresh Start, New Start) may either end or be significantly amended by Scottish Government. Accordingly, should the Council wish to continue such schemes for example, to help regenerate town centres by encouraging empty properties back into use, then it would be potentially at the Council’s expense. It would be important therefore that Scottish Government/national funding streams continued to be made available and accessible to support local authorities.

37. Consultation and engagement with communities and local businesses will be key to ensuring local schemes deliver the right results and, Elected Members, in setting budgets, will require to recognise that resource allocation will also now require to include the cost of local relief schemes. An impact analysis will be a useful tool to adopt in determining the benefits (to communities as opposed to individual businesses / sectors) against the cost of the scheme.

38. A further consideration for the Council around local relief schemes will be to ensure they are fair and transparent, with any scheme requiring to stand up to scrutiny. In addition, the administration of local relief schemes could result in a significant administrative burden through design of a scheme, management of the reliefs, software updates (currently a national “one size fits all” applies) at a local level, consideration of challenges/appeals, and reporting to the Scottish Government. This will require to be part of the overall analysis of cost versus benefits.

39. Business Rates Incentivisation Scheme and future developments/amendments to the current rating scheme will require to be carefully considered prior to introduction of this type of proposal.

40. Finally, the ability to introduce local relief schemes puts a degree of control in the hands of the Council. However, while we continue to operate a national pool, this will only impact on the margins. The key determinant of the cost of Non-Domestic Rates for businesses will remain the rateable value (determined by the assessor) and the rate poundage (determined by Scottish Ministers). The challenge will therefore be ensuring that any scheme is fair, affordable and delivers community benefits.

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

41. East Ayrshire Council is committed to community engagement in all service areas with all sectors of our communities, not only with constituted bodies but those with
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potential to develop, as well as individual members of the community. Capacity building support designed to assist communities to develop their skills, confidence, organisation and influence is required to equip communities to fully participate in the engagement process.

42. Empowering community development and participation will require an initial investment to ensure that adequate capacity building support can be provided to allow groups to develop their confidence and skills to enable them to fully participate in the decision making process. There is potential for this investment to be offset by savings in the longer term which will result from enabling communities to take more responsibility within their communities.

43. To further strengthen this approach the legislation requires to ensure that the Scottish Government supports CPPs to resource capacity building at community level, with a particular focus on deprived communities, in order to build the ability of communities to take ownership of community assets, participate in processes to improve outcomes of service delivery and contribute to the priorities of the work of CPPs. Failure to do so may result in those communities which are less established and active, particularly within our smaller and most disadvantaged communities, becoming more marginalised.

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?

Local Outcomes Improvement Plan

44. Under section 5, we note that each community planning partnership must prepare a ‘local outcomes improvement plan’. This introduces new terminology which requires clarification and further detail. In particular, we would seek explicit clarification on how the Local Outcomes Improvement Plan would link to the development and delivery of the current Single Outcome Agreement process.

45. Within the Community Planning context, the development of the SOA has ensured a focus on jointly agreed outcomes and allowed CPPs to monitor their progress on achieving these outcomes. While putting the requirement to develop and deliver on a shared plan for outcomes (for example Community Plan and linked SOA) on a statutory basis will support us to build on the work which has been taken forward locally with Partners and communities in respect of the SOA, we would have concerns regarding an additional requirement to develop a supplementary local outcomes improvement plan.

National Standards for Community Engagement

46. Some of the concrete suggestions contained within the pre-draft Bill consultation have been stripped out, including compulsory use of the National Standards for Community Engagement. As previously highlighted at paragraph 7, consideration should be given to reintroducing them into the Bill as they have served well in ensuring the quality of engagement with communities.

Common Good
47. East Ayrshire Council feels that the Bill has missed the opportunity under Part 6 to provide clarity both in respect of the definition of common good, the distinction between alienable and alienable common good land and the interpretation of the terms of the Local Government (Scotland) Act 1973. The present situation remains unacceptable particularly given the appropriation issues raised in the case of Portobello Park Action Group v City of Edinburgh District Council [2012] CS1H69 and should be addressed by statutory amendment.

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?

48. The legislation requires to ensure that public bodies, such as the Scottish Government and CPPs, resource capacity building for communities, particularly deprived communities. Failure to do so may result in them failing to meet their General Equality Duties through not taking steps to involve all members of the community, including those with protected characteristics.

49. In the absence of a published Equality Impact Assessment (EQIA), the Council would agree in principle that the Bill has the potential to have positive impacts for people from protected characteristics. The Council is mindful of the public sector duty and recognises the importance of conducting local EQIAs as and when required to ensure that there are no negative impacts for people with protected characteristics.

5 September 2014