Community Empowerment Bill

Response from: Maryhill and Summerston Community Council

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

There is a clear need and increasingly broad support for a return of meaningful power and responsibility to community level in Scotland.

The Bill - as proposed - is generally a welcome step towards giving community bodies (including CCs like our own) meaningful powers that can be exercised both independently and also in broader partnerships with public service authorities. Acknowledging the significant pre-consultation effort before drafting the legislation, we have the following comments:

Our (Maryhill & Summerston) Community Council area highlights many of the challenges facing the much-needed revival of real localism in Scotland. Notwithstanding the efforts of many active community councils across Glasgow, 22 of the 100 Glasgow City community councils are currently inactive and this has led to an increasingly centralised approach to the ‘delivery’ of ‘services’ in many Glasgow areas. Our ward has a number of well-networked community organisations and there is good community spirit around, but the ward experiences higher than average crime rates and unemployment (and many of the other indicators of ‘social deprivation’, which are inevitably imperfect proxies for determining the health of our ‘community’). Set up in 1976, the Community Council was in abeyance for 10 years, and re-constituted in 2006 with the support of the local Maryhill Housing Association. The CC has worked to engage with planning applications, organise community events and support the initiatives of other local community groups. This has occurred whilst Community Councils across Scotland have been struggling (eg resulting from the cut in pooled financial support for CC networking via the website/secretariat of the Association for Scottish Community Councils in 2012).

We welcome the fact that the CE Bill is aimed at empowering a broadly-defined class of community bodies in Scotland. The extent to which the CE Bill can support the development of and empower, both urban community councils - and community bodies (eg Maryhill Burgh Halls Trust and local charitable organisations including SCIOs in our ward - is therefore of strong interest to this CC.

Three aspects of the proposed legislation – which if enacted - promise significant and welcome reform of the current level of community involvement and responsibility for decision-making and use of local assets.

- **The right to buy ‘abandoned or neglected’ land even if there is no willing seller.** Amendments to the Land Reform Act 2003 which alters definition of excluded land to enable community bodies in more urban areas such as ours to register a community interest in the right to buy. Although there is going to be a need to further define the term (‘abandoned and neglected’), there are likely to be a number of buildings and
Land areas that fall into this category in Maryhill and Summerston. Some of these buildings/land are in important public areas of the ward and their condition has a depressing effect on the area. If they were brought into community ownership this could help to improve community life in the ward. Legal provisions enabling the community to purchase and sustainably develop such land/property would give this CC a defined power that would actively help to engage the community in the work of CC: with more power, comes greater local participation.

- **A transparent avenue to participate in the strategic decisions that shape the delivery of local public services**

- **Statutory underpinning for Community Planning Partnerships and provisions for participation requests** would - if effectively communicated and resourced - start to better harness local views and knowledge about how public services are directed at a local level. For example involving local community organisations in prioritising maintenance contracts and investment planning to ensure that local communities are not neglected. Sometimes it seems that landscape maintenance focuses on the wrong areas and investment and cyclical maintenance misses out the works that are most needing done.

- **Statutory access to information**

  There are many provisions which place a duty on relevant public service authorities to publish information (eg about a "proposed outcome improvement process" and related report, "annual allotments report", "food growing strategy", "common good property register"). This access to information is vital for community bodies to assess their options and understand how they can participate in - and influence - what should be fully, public processes.

Inevitably the CE Bill is not comprehensive and there are areas which remain unaddressed by the Bill and some aspects of the Bill do not go far enough to secure the conditions necessary to ‘empower’ communities,

- **Community Councils**

  the Bill does not address the specific role and powers of Community Councils to reinvigorate local democracy. We note the work and recent report of the Commission for Strengthening Local Democracy and are aware that provisions of the CE Bill may well be supplemented by a wider review prompted by the findings of the Commission.

- **Right to Request a CPO over Land**

  Whilst the right to buy ‘abandoned or neglected’ land provides a route to purchase land where there is no willing seller, we would support the recent findings of the Land Reform Review Group report which recommends legal provision for an additional channel to facilitate community purchase of land where there is no willing seller, namely a "Right to Request a Compulsory Purchase Order over Land" - where a local community body could in certain circumstances request Scottish Ministers to exercise a CPO over land for re-sale to the community body, where that is deemed by Scottish Ministers to be in the public interest.

- **Access to information**

  As highlighted above, open access to information is vital and statutory duties to provide details of reports/registers/processes are welcomed. However, there are no
specific provisions to ensure: that a "Common Good register" or a "Register of Community Interests in Abandoned or Neglected Land" are map-based and thus easily navigated. There are also no provisions to ensure that the local outcome improvement processes are made public at every stage (see answer to Question 4).

- **Financial burden on community bodies**
  Some of the provisions of the CE Bill establish powers that may not be easily afforded by a CC or community body.

It is acknowledged that some of these issues would likely be addressed via policy-fixes by the administration of the day, (e.g. the financial burden of administration and/or cost of 'capacity-building' could be surmounted by the development of targeted funds to support public authorities and communities engaging with the provisions), but it might be worth considering how to embed them in this or other legislation.

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

Whilst we cannot speak for those public sector organisations that would be affected by the CE Bill, we would imagine that in the long-term, the provisions of the Bill would as the Bill's title suggest 'empower' communities and therefore be of significant benefit to relevant public service authorities - as empowered communities are more likely to help shape and guide the delivery of services in a more strategic, targeted and efficient way.

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?**

Again, Maryhill & Summerston Community Council cannot comment broadly on the capacity of communities across Scotland, but for our area, it is unclear whether we would have the capability to take advantage of the s 48 right to buy 'abandoned and neglected' land. There may be significant sums of money involved in both the legal and administration costs of ballots indicating community approval (new Section 97J of the 2003 Act) and conveyancing. These costs, however, are the inevitable aspects of community responsibilities for. Without recourse to changing the Bill itself, there would be ways to assist communities by:

- Ensuring resources were invested to promote easy access to the information for communities. A public register of common good land must be easy to navigate and map-based to enable CCs and other community bodies to easily assess the status of land in their area
- Amendments could be made to broaden the remit - and increase the funding - of the Scottish Legal Aid Board to provide publicly-funded legal advice to assist community bodies in asset transfer/right to buy applications..

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?**

We consider a list of certain provisions in turn. Some comments on provisions detail potential changes to the legislation, some offer observations for deliberation:
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- s 4(3) "Outcomes of the type mentioned in subsection (2) ("local outcomes") must be consistent with the national outcomes determined under section 1(1) or revised under section 2(4)(a)." **What happens if/when local outcomes proposed by a CPP do not cohere with national outcomes?**

- s 11 duty to promote - **How will this be achieved?** It would be difficult to be too prescriptive in legislation, but there could be some more specific reference to how Scottish Ministers will "promote" community planning effectively.

- s 19(5) makes a provision that a public service authority can refuse a participation request on if there are "reasonable grounds." **This is highly subjective and there is no way to appeal the decision. This should be amended.**

- s 19(7)(a) does not specify a period and leaves this open to subsequent regulation by Ministers. **What is the rationale for this?**

- s 21(7) states that "The authority must publish the information mentioned in subsection (6) on a website or by other electronic means is inadequate," but s 21(6) leaves this open: "The authority must publish such information about the process as may be specified in regulations made by the Scottish Ministers." **It is crucial that participation requests and decisions are public at every stage and that this is built into legislation.**

- s 22(1)(c) re: the power to decline participation requests **The two year rule seems too restrictive, given that a refusal notice may have been issued due to the ineligibility of the initial, requesting community participatory body. Although the power to refuse is discretionary, there should be different categories of refusal (eg technical or substantive) so that requesting CPBs are not disadvantaged by eg previously poorly-framed requests of other CPBs.**

- s 22(4) The rationale for this clause is not clear. It could be material as to whether the body making the request is the same as that which made the previous (and similar request).

- s 24(2) - **This provision is a good idea, but potentially open to abuse. What does 'in consultation with' mean? What happens if the CPB does not agree. What happens if there are multiple CPBs and they do not all agree to modify the "outcome improvement process"**

- s 48: **See our response to Question 2. We would support the Land Reform Review Group's proposals for an additional avenue of community acquisition of land if there is an unwilling seller, ie a 'Right to Request a Compulsory Purchase Order over Land'**

- s 48 97F "The Keeper must set up and keep a register, to be known as the Register of Community Interests in Abandoned or Neglected Land (the "Part 3A Register")" **Would there be benefit in proactively developing a publicly accessible register of Abandoned and Neglected Land - for which there isn't necessarily a registered community interest?**

- s 48 The new 97J has a procedural provision for establishing a ballot to evidence community support for the application. "that at least half of the community voted in the ballot or where fewer than half of the members of the community voted, the
What does "proportion that voted is sufficient to justify" mean? This may create confusion.

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?

We support the views laid out in the Assessment of Equal Rights and sustainable development as set out in the Policy Memorandum. Sustainable development would likely be well-served by community-led planning and ownership of common good land.