COMMUNITY EMPOWERMENT (SCOTLAND) BILL

Scottish Parliament Local Government and Regeneration Committee

Evidence from the Big Lottery Fund

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

There is no doubt that the intention behind the Bill is indeed to empower communities. It does not demand that all communities become empowered but instead, in most cases, the Bill makes provision for communities to become empowered only if they wish to, and only to the extent that they wish to become empowered. So, for example, the Committee will already be aware that one of our major investment areas, Growing Community Assets (or GCA), has, since 2006, made over £60 million available to communities throughout the whole of Scotland - both urban and rural - so that they can have more control and influence over their future development, prosperity and resilience through owning and developing local assets that are important to them. Although we have seen our investment bring about some spectacular transformations in a number of communities, nevertheless, the Fund has always been clear that asset ownership is not appropriate in all circumstances or for all communities. The Bill recognises this too in that while it does give communities the right to request to buy public sector land or buildings, it also gives them the option to request to lease, manage, occupy or use such land and buildings. This provides communities with a variety of ways in which they can make better use of public land and buildings. It also gives them the option to ‘test their mettle’ by maybe starting off by leasing and managing an asset to see how they get on before deciding to buy it outright from the public authority.

It should be stressed, however, that our GCA investment area only supports communities to acquire and own assets (private as well as public). But while GCA will not fund communities that simply want to lease, manage, occupy or use public sector land and buildings, some of our other investment areas and programmes may support community groups to provide services and activities from public sector premises.

The variety of ways in which the Bill permits communities to get involved in improving public services is also welcomed because of the choice it affords them to get involved to the extent that they want to. However, because the Big Lottery Fund is unable to financially support statutory obligations, there is probably an interesting debate to be had here as to just what funding we will be able to provide to communities who decide to accept this challenge.

The success or otherwise of the Bill’s proposals on participation and asset transfer requests, as well as a number of its other proposals, will depend to a great extent on the attitude and position taken by the public bodies affected by them, and especially, of course, by local authorities. In addition, success will depend upon the extent to which communities, and the statutory and voluntary organisations which support them, can access and develop the skills and resources they need to successfully exploit the opportunities the Bill creates.
Perhaps nowhere will this be more key than in the Bill’s proposals around community planning. The Bill legislates for this activity to be the process by which public bodies work together and with community bodies to plan for, resource and provide services which improve local outcomes in the local authority area. By putting forward these provisions, the Government is signalling how it intends community planning to operate and that it expects communities to be at the core of the process. It is to be hoped that the public bodies involved pick up this signal and include community bodies as full partners.

Community bodies will require help and resources to enable them to play this fuller role and this point will be returned to in our response to Question 3 below.

Other provisions in the Bill that are particularly welcomed include:

(i) The attempt to provide greater clarity and transparency around common good assets held by local authorities by placing a requirement on Councils to establish and maintain registers of all properties held by them that fall into this category;

(ii) The new measures aimed at making the ‘right to buy’ provisions in the Land Reform (Scotland) Act 2003 easier to use, as well as the extension of these provisions to urban Scotland (though, as was pointed out above, GCA has been supporting communities throughout the whole of the country to acquire and develop all sorts of assets that matter to them (not just land and buildings) since 2006). This will also assist us, and our partners, Highlands and Islands Enterprise, in our delivery of the Scottish Government’s Scottish Land Fund; and

(iii) The introduction of a new Part 3A of the Land Reform (Scotland) Act 2003, permitting community bodies to acquire neglected and abandoned land, even where there is not a willing seller (though it is anticipated that agreeing definitions of ‘neglected’ and ‘abandoned’ will not be straightforward).

A surprising omission from the Bill perhaps was the provision of greater clarity on a substantive future role for Community Councils. The Bill does recognise these Councils’ interest in shaping local services and gives them a specific role in relation to the monitoring of common good assets. However, it had been anticipated that the Bill would provide an opportunity to increase Councils’ profile and their contribution to civic and community life.

A final concern is one that it is understood was expressed previously by others, namely, that some people and communities might have difficulty understanding the language used in the Bill. It is appreciated that the Bill must follow the usual format and conventions, but this makes it all the more important that it is accompanied by clear, concise and easily understood explanatory notes. The recent publication of an ‘easy read’ version of the Policy Memorandum for the Bill is welcomed. Highland and Islands Enterprise’s work in producing support materials for communities using the provisions of the Land Reform (Scotland) Act are a good example of how this challenge can be addressed. Based on experience gained in over ten years of working with communities to acquire, develop, manage and operate local assets and services, we believe the Bill’s publication presents a perfect opportunity to work with communities already doing this to co-produce support materials and other resources.
2. What will be the benefits and disadvantages for public sector organisations as a consequence of the provisions in the Bill?

**Asset transfers**

Although public bodies will lose the capital value of any assets they transfer to community bodies (especially if, as the Big Lottery Fund prefers, they transfer the asset at a discount or even at nil cost), they will also be free of the associated liabilities. At the same time (and especially if we support them through our GCA investment area), the community will acquire an asset which may have fallen into disuse or has not been used to its full potential, but which the community themselves can now put to productive use to address local needs and benefit local residents.

In some instances, community asset projects and public sector organisations can be mutually beneficial. For example, instead of operating a separate local office, the public sector organisation could become a core tenant of the newly community-owned asset, thereby going a considerable way to help with the asset’s future sustainability too.

As mentioned above, since the introduction of GCA in 2006, the Fund’s policy has been to only fund acquisition costs when public sector assets are sold to community groups at a discount. This position is endorsed in the Report, ‘The Land of Scotland and the Common Good’ published by the Scottish Government’s Land Reform Review Group in May this year which states that:

“The Review Group considers that assets should be transferred to local communities at a reduced cost or no cost where that is judged in the public interest because of the wider public benefits it will deliver.”

What is more, the Review Group went on to state that it saw:

“no logic to the circulation of public funds”,

which we interpret as one public body (such as the Fund) having to provide grant assistance based on full market value to a community body to pay another public body (such as a local authority) for land or an asset which it is selling to a community.

Work to clarify and ensure a more consistent interpretation of the Public Finance Manual in relation to asset transfer will be important to the success of this part of the Bill.

**Neglected and abandoned land**

The Bill’s provisions allowing community bodies to apply to acquire neglected and abandoned land from unwilling sellers will see communities bringing such land into productive use, thereby removing what could be a blight on the areas affected and, in some cases, relieving public bodies of the burden of dealing with the consequences of this neglect. This can only be good for the communities and the local authority areas concerned - environmentally, but also maybe socially and economically. Moreover, the community’s development of such land may even stimulate the local property market and
encourage further sales by others.

There will, however, be challenges, particularly in cases of unwilling sellers in ensuring that a community body is able to gain sufficient information about an asset in order to make a reasonable decision about both its value and the aspirations the community harbours.

Allotments

The proposed new duty on local authorities to hold and maintain waiting lists for allotments will hopefully provide welcome clarity for all concerned (both the local authority and those wishing an allotment) about the availability of allotment sites in the local authority area. It will also provide a valuable source of intelligence about the demand for, and potential to develop, community growing sites. However, it will also put further pressure on local authorities to respond to increased demand for such sites.

Participation requests

While the outcome for everyone involved must be to provide a better service for those who need it, public bodies will inevitably have to spend scarce and precious time and other resources assessing any participation requests they receive from community bodies. This coincides with dire warnings from the Improvement Service for Scottish local government about sizeable cutbacks in expenditure that Councils and other public sector bodies are going to have to make.

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?

Our experience indicates that many communities - and especially community anchor organisations - are already undertaking the sorts of activities described in the Bill. Nevertheless, the capability of communities across Scotland to take advantage of the provisions in the Bill will, as would be expected, vary enormously, and will do so to different degrees at different times. Many able and capable communities will undoubtedly have the capacity to take full advantage of the Bill’s provisions - or at least to take advantage of them to the extent that they wish to. Other communities - whether capable or not - will have no interest in the Bill’s provisions, while there will be others still who would probably like to make use of the provisions but lack the capacity to do so. Indeed, some of these latter communities may not even know how to start to take advantage of the provisions. And, as suggested earlier, even something as basic as the language used in the Bill and its associated documentation will be off-putting to communities if they are unable to understand them.

That said, we know that with the correct mix of capacity, engagement and support, communities are more than capable of rising to significant challenges and seizing substantial opportunities successfully. For that to happen though, the eventual Act will
need to be underpinned by a significant effort to ensure that it is well understood and used.

The preparation of applications and compilation of business plans, etc., are complicated and time-consuming tasks, especially for voluntary organisations. This should be recognised in the timescales given to such groups to put these documents together and to submit them.

A lot of community groups will probably need help and support to build their capacity so that they can put quality applications together. As well as this practical support (with things like business plans), the Big Lottery Fund has found that applicants often also need relatively small amounts of money to develop and test their ideas and thinking, for feasibility studies, technical reports and scheme design studies, community consultation, professional advice, or to visit similar operational projects elsewhere to see how they work and to learn from them. This latter activity is a particularly powerful and effective way for projects to learn from one another so as to build on positive experiences and avoid pitfalls. The Fund therefore offers grants of between £500 and £10,000 through its Investing in Ideas programme for these purposes.

Our years of experience of operating grant programmes which support communities to acquire and develop assets, as well as the independent evaluations of these programmes, have confirmed how much applicants need support to help them put together large scale and complicated capital projects. We have therefore made specific budgetary provision so that we can provide Investing in Ideas awards to potential GCA applicants. We have also put contractual support in place to help applicants and grant holders with self evaluation, financial and business support, and with renewable energy projects. Indeed, all applicants who make it through to stage two of the GCA application process are automatically referred on to our business support contractors (who are themselves a social enterprise). In addition to all of this, applicants can also apply for up to £50,000 (and sometimes more) in development funding. This is intended to help meet the costs of, for example, options appraisals, feasibility studies, site investigations, design development, statutory consents, business plans, professional and legal fees, market research and capacity building, between stages one and two of the application process.

We also employ two members of staff who can help applicants and grant holders with advice and support on a wide range of building and technical matters. This form of support is particularly highly valued by applicants and grant holders.

The findings from the five year, independent evaluation of GCA, published last year, provide very useful indicators, identified by projects themselves, about the factors that contribute to successful community ownership projects, as well as the sorts of challenges (including some that are not inconsiderable) that they face. The capability and capacity of a community group can have a direct bearing on a lot of these factors and challenges. So, for example, GCA project managers recommend that group members need to be committed to their projects, willing to give generously of their time, effort and expertise, and to engage constantly with the members of their communities. Major challenges included an over-reliance on the same office-bearers, members and volunteers and, of course, achieving financial sustainability. Fortunately, GCA projects also suggested some practical measures that can be taken to help make community ownership a success and thereby contribute to the success factors.
The GCA evaluation also made another couple of interesting observations which have a bearing on the capability of community groups to make a success of their projects.

The first was how crucial local Councils can be when it comes to enabling communities to achieve their aspirations to own and manage public assets. This can range from the authority’s fundamental attitude to the community ownership of assets (i.e. whether they are prepared to even consider the disposal of their assets to community groups), through to the support - financial or otherwise - they are willing to provide to the new community owners after they acquire the former Council property. The GCA evaluation makes it clear that there are both benefits and challenges for both parties to such transactions.

The second observation arose from a survey of households in areas where GCA projects are located. This demonstrated more limited interest in volunteering and managing projects in urban areas. The evaluators suggested that the greater interest shown in rural areas, and particularly in remote rural areas, might be due to the stronger tradition of volunteering and of ‘doing things for themselves’ that exists there. In looking ahead, therefore, the evaluators suggested that urban communities, and especially the most disadvantaged of these, will continue to need greater support with community ownership projects if the potentially greater benefits (particularly in terms of their impact on larger numbers of people) are to be achieved.

A summary of the evaluation findings was e-mailed to all MSPs on 13 September 2013 but it can be viewed at:

http://www.biglotteryfund.org.uk/-/media/Files/Programme%2520Documents/Growing%2520Community%2520assets/GCA%2520eval.pdf?rct=j&frm=1&q=&esrc=s&sa=U&ei=rhfyU5G2Olyy7Aa6_IYGv&ved=0CBQQFjAA&usg=AFQjCNF-Jxk31dmGnzLeFBN1VRzTMCzvYQ

The Big Lottery Fund has also accumulated a significant amount of learning about the capacity of some communities to respond to funding opportunities from developing and delivering the Our Place initiative.

Information about Our Place has been included in previous evidence supplied to the Committee (and to the consultations on the Bill), but members will recall that it is a place-based initiative by the Fund to invest in communities with high levels of deprivation but whose share of Big Lottery Fund investment has fallen furthest behind their share of need. Our Place is committed to focusing on a neighbourhood, offering long term support, pursuing opportunities and reaching out to communities to help us invest in their places. The theory behind the programme is that in doing so, the people and organisations in those neighbourhoods and communities will build stronger connections and relationships, and be empowered to work together to bring about positive changes in their communities.

Our learning from Our Place is drawn both from the positive outcomes it is achieving and from things that have not worked well or which did not complement the initiative’s overall approach. Further information about Our Place and some learning points are given in Annex A to this evidence paper.
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?

While the Big Lottery Fund generally welcomes most of the specific provisions in the Bill, there are a small number which we think would benefit from further clarification or consideration. However, at this stage it is not possible to recommend that the provisions concerned need changed because in a lot of cases, they are subject to secondary legislation, regulations or Ministerial guidance. In other words, ‘the devil may yet be in the detail’. Three particular examples illustrate this point.

The first example relates to the proposed modification to the Community Right to Buy process whereby Scottish Ministers will arrange for the ballot required after the right to buy has been triggered to be conducted by an independent third party, not the community making the right to buy as formerly. Ministers will also meet the cost of the ballot. Whilst the proposal that Scottish Ministers organise and pay for the ballot has much to commend it, the Fund’s evidence on the draft Bill previously pointed out that there was a danger that this might also, in a way, divorce the community body wishing to make the purchase from the community whose very support it needs to be assured of. Nevertheless, it will only be once the detail of this proposal is made plain that we will be able to gauge whether or not it will work to a community’s advantage.

The second example concerns Section 52(4)(e) of the Bill which requires the ‘community transfer body’ making an asset transfer request to specify in its request the price it is prepared to pay for the asset it wishes to acquire. In our evidence to the draft Bill, we pointed out that this will entail the community body having to arrange and pay for a survey/valuation at a very early stage. This seems unfair and onerous at this stage of the process. Instead, it would expedite the transfer process if the relevant authority gave prior notice to the community body of the minimum price it would accept. This could prevent the community body having to become embroiled in a costly and time consuming negotiation. However, this particular issue is another that may yet be resolved further down the line because the Bill allows Scottish Ministers to make regulations enabling community transfer bodies to request information from public authorities about the assets they are interested in.

It would be useful for the community body to have the valuation early as it could provide the basis for a negotiated settlement with the owner. It will also let the body know the amount of funding they will need and give them the opportunity to make early contact with potential funders to gauge the likelihood of funding being made available. More ‘realistic’ valuations would also be welcome: that is to say that while a valuer may insist that a property can command a certain valuation on the open market, the reality is that no party other than the local community may actually be interested in buying that property! This issue may take on added importance with the extension of the community right to buy to urban areas where, more generally, there is likely to be a more competitive market for relatively more expensive land and buildings.
The third example concerns a community’s right of appeal where its request for the transfer to it of an asset held by either Scottish Ministers or a local authority is refused. If such a request by a relevant public authority other than Scottish Ministers or a local authority, the Bill provides for the community body to appeal to Scottish Ministers. The Bill currently makes no mention of any right of appeal against a refusal by Scottish Ministers to agree to an asset transfer request. Local authorities on the other hand, being democratically accountable in their own right, are required by the Bill to make separate arrangements for the review of decisions to refuse asset transfer requests. Here again, however, the Bill empowers Scottish Ministers to make regulations about the form these arrangements must take.

The Fund supports the proposal in the Bill to require local authorities to provide detailed waiting lists, annual reports and strategies in relation to allotments. However, in our responses to consultations on the Bill, we indicated that we would like to see Councils being required to produce registers of all their land assets - not just allotment sites - and to make them publicly available. We also suggested the minimum information that these registers should contain. We believe that the production and existence of asset registers would greatly assist both sides involved in community right to buy transactions involving public sector assets.

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?

Equal rights

The Fund welcomes the fact that in making decisions under the provisions of the Bill, public bodies will require to constantly be mindful of their duties under the Equality Act 2010. We would also support suggestions that public authorities be required to carry out an Equality Impact Assessment when developing policies in relation to the provisions in the Bill. This is because in addition to our fundamental, intrinsic belief in equality, and our commitment to our own equality principles, we also believe that the promotion of full accessibility, diversity, equality of opportunity and inclusion, and the reduction of disadvantage and exclusion can all have practical benefits for communities and community projects too. So, for example, in our experience, most community-based service provision aims to ‘rectify wrongs’, or fill a gap or deficit. And on a very practical level, the opening up of community asset projects to as many people and different groups as possible could increase usage, business, and thereby sustainability.

Impacts on island communities

We have seen contrasting responses to the opportunity to take on community ownership of land across the three island local authority areas reflecting the relative importance, differing patterns of use and availability of land in these areas. Moves to improve the operation of the community right to buy will be especially helpful in Eilean Siar (as well as in the island communities in Highland and Argyll and Bute Council areas). In our experience, Councils in these areas are generally well disposed to community engagement
in assets ownership and service provision. Consequently, all three island Council areas have high levels of community ownership in terms of buildings and other assets, including renewable energy resources. This underlines the point made earlier in response to Question 3. about how crucial local authority support and encouragement can be in facilitating community ambitions. The Community Empowerment Bill may create further opportunities in island communities, as well as important opportunities for these communities to share their considerable and valuable experience and expertise more widely.

Sustainable development

At a project level, and specifically for community asset ownership projects, our experience suggests that the provisions in the Bill relating to this activity are likely to have a positive impact on sustainable development.

The GCA1 evaluation tells us that the projects funded under the investment area have had a positive impact on the local, and thereby the global, environment. This is because environmental concerns have been an important part of most of the projects supported and their efforts have taken a variety of forms.

17 GCA1 community energy projects are now in operation and generating roughly 9.8MW of renewable energy. These projects have, in turn, inspired other communities to generate their own power and therefore income, while at the same time making a major contribution to reducing CO2.

Thanks to the shops, post offices and petrol stations saved or created by communities, there has been a positive impact on reducing fuel consumption. And there is evidence that involvement with GCA projects leads households to reduce their household energy consumption too.

Almost all the new build and refurbished projects use environmentally friendly heating systems and building materials. For example, the new centre built with GCA funding by the Gairloch and Loch Ewe Action Forum (GALE) was the first public passive building in Scotland, and The Big Shed project in Loch Tay won a Carbon Trust Scotland Low Carbon Building Award in 2013.

A number of recycling projects (such as RECAP’s Community Recycle North Lanarkshire and the Ballantrae Recycling Workshop and Retail Outlet) not only save users money but also divert waste from landfill.
BIG LOTTERY FUND EVIDENCE ON THE COMMUNITY EMPOWERMENT (SCOTLAND) BILL

OUR PLACE

What is Our Place and what do we want to achieve with this initiative?
Our Place represents a different way of investing Lottery funding based around priorities and a vision statement set by local people. It is a place-based initiative from the Big Lottery Fund that aims to build stronger connections and relationships in communities, empowering local people and organisations to bring about positive and lasting changes in their neighbourhoods.

Our Place 1 launched in five neighbourhoods in 2010 and has since invested approximately £11million across 25 projects that positively contribute to their neighbourhood vision. In addition to grant funding, we invested in support contracts that built the capability of local people and organisations, supporting them to develop their own neighbourhood vision statement and providing them with the best possible opportunity to make effective applications to us that reflected both local priorities and the outcomes the Big Lottery Fund wanted to invest in.

A project team at the Fund has developed Our Place 2 and our learning from the first initiative has been built into our approach. The new Our Place delivery framework essentially splits the initiative into two phases. Phase 1 is focused on asset based community development work, which will be ongoing throughout the life of the programme, and phase 2 is focused on project development, grant making and project delivery, which will start approximately 12 months into the process.

Our Place 2 will work in seven neighbourhoods across Scotland and will adopt an approach that is flexible, long-term and locally determined in a way that focuses on the assets within each neighbourhood. The initiative will also explicitly aim to have more impact on the way the public sector works with communities. All of these developments are reflected in the outcomes that Our Place 2 will be working towards, and projects funded through the initiative will be required to meet all three of these outcomes.

Our Place 2 Outcomes

- Communities have more influence on decisions taken locally
- Communities have more sustainable services and facilities that reflect their local priorities
- People say their community is a better place to live
The Big Lottery Fund is investing in five year support contracts to provide intensive, asset based community development to develop the skills and confidence of local people and organisations. There is a support contract for each Our Place 2 neighbourhood.

**What will support contractors be doing in each neighbourhood?**
The focus of the support contractors’ work will be less about funding in the early stages and more about doing the right groundwork in neighbourhoods, building connections, strengthening relationships, facilitating asset mapping and visioning, and developing skills and confidence. We expect the early stages of Our Place 2 to take up to 12 months, depending on the local context.

Support contractors will then support neighbourhoods through the project development and grant making stage of Our Place 2 and we will expect them to be aware of every application that is submitted through the initiative. A Community Chest of £20,000 will be administered by the support contractors and available to each community to be accessed in small amounts as and when required. We anticipate that the Community Chest will be used to run events, pilot activities, undertake research and learning visits, or to deliver community capacity building in the first year or two of the initiative. The final stage of the support contracts will be focused on supporting grantholders through project set-up and the early stages of project delivery.

It is essential that the support contractors work closely with key agencies operating in these neighbourhoods throughout the lifetime of their contract – sharing information and learning, complementing existing initiatives, facilitating joint-working and avoiding duplication of efforts will be of critical importance.

**What kind of projects will Our Place 2 fund?**
The Fund has set broad outcomes and eligibility criteria for this initiative, but we have not specified any particular types of projects that we would like to fund. All projects should stem from the community and fit with their vision for their future. Although we cannot know for sure which types of projects will emerge from each of the seven neighbourhoods, our learning from Our Place 1 tells us that they are likely to include a variety of revenue and capital. Funding through the first initiative has been invested in projects around community transport, community gardens, community food, financial inclusion, Development Trusts, community health, family support, community facilities, additional capacity building support to voluntary and community sector organisations and much more.

**What have we learned from Our Place 1 and how has it influenced Our Place 2?**
Our Place 2 aims to get in alongside communities through support contractors, helping people and organisations to form ideas by supporting them over a long period of time and in a neutral way. The Our Place journey thus far offers a number examples of how citizen-led activity has been enabled, increasing people’s confidence and empowering them to come together to deliver community-led projects. However, the journey also offers examples where community groups perhaps feel that they are taking on too much too soon, and other examples where groups are delivering successful projects but struggle with sustainability and therefore remain dependent on Our Place funding.
The following key learning points appear to be particularly important for any discussions around community-led approaches to empowering communities:

- Genuine community empowerment, and asset based community development in particular, takes a long time and is very resource intensive. The Fund did not fully appreciate how long until Our Place 1 delivery was underway. We extended Our Place 1 support contracts from two to three years. As we embark on taking the Our Place approach to seven new neighbourhoods, we have committed to five year support contracts from the outset.

- Genuine community-led approaches require a depth and breadth of consultation that goes beyond most of our expectations for our other funding programmes. The community must be in control of the consultation and every effort must be made to bring people from the margins into the centre of the process as citizens and not as a member of a specific policy group.

- Small amounts of money can make a huge difference to encourage citizen-led activity. Our Place 2 will include a community chest that can distribute small amounts of cash (approximately £250) to enable things to happen quickly and build momentum at a pace that is right for a community.

- Good things can happen when citizens are in a position to sit at the table and influence decisions that affect their community. Our Place 1 offers a good example in Newmains where Newmains Development Trust are leading a significant £2 million capital project to build a new community hub, and the local authority have agreed to base the local library and housing services within the new building. The discussions between people and organisations have not only led to an important revenue stream for the Trust, they have also built people’s confidence in their ability to shape the future of their community.