The Moray Council response to a call for Evidence on the community Empowerment (Scotland) Bill 2014

The Scottish Parliament has issued a call for evidence to inform its consideration of the new Community Empowerment (Scotland) Bill. In repose to the five questions the Moray Council response is as follows;

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

The Moray Council welcomes and supports the key changes highlighted in the Bill and those area that will assist empower communities will be as follows;

- Increased community ownership of land and assets;
- The removal of barriers that have held communities taking on more responsibility for assets;
- Potential for communities and community groups to own and deliver key local services to that population, close to home, and based on clear knowledge and understanding of what communities want;
- Direct engagement of communities with Public Sector organisations and Community Planning Partnerships and ability to directly influence and suggest improvement and change in services; and
- Potential for innovation and sustainability of local services through local ownership.
- improved communication between a stronger community planning partnership and local communities.

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

Potential Benefits to Public Sector Organisations

- Stronger communities
- Communities will to take more responsibility for local assets
- Greater community based service provision;
- An increase in opportunity for dialogue with communities, which will inform The Councils and Community planning partnerships in developing strategic and operational planning of services to meet the needs and aspirations of communities
- Strengthening the role of the Community Planning Partnership and potential, through that for innovation through partnership working and with input from communities.

Disadvantages / Challenges to Public Sector Organisations

While welcoming the policy intention of the draft Bill the Council had outlined a number of issues in the consultation that have not been taken on board by the Government and have some concerns that they will impact negatively

- Capacity will be required of The Moray Council and other public sector organisations in relation to supporting the processes enabled by the Bill. For example, organisations will be required to put in place processes to manage community requests to improve outcomes of services. There will be
implications for the Council in the need to find additional capacity to deal with new and extended responsibilities contained in the Bill (Community Right to Buy, Asset Transfer, Participation requests, Common Good and the new allotment legislation.)

- The Bill is not clear about the need to develop community capacity of groups particularly the more disadvantaged to take responsibility for assets and to participate in services that affect them and their communities. To implement the Bill effectively will require Public Sector authorities to look at additional resource to effectively support the required capacity building.

- If more disadvantage communities are not supported there could be an imbalance of more articulate and affluent communities acquiring assets while these less affluent and vulnerable communities are unable to.

- The provisions of the Bill enable community organisations to request and receive ‘detailed’ information about a property that they are interested in. This is not part of the Community Asset transfer policy and this is likely to include information about the energy efficiency and maintenance costs of any asset. This would require additional capacity to be directed at providing such information, at a potential cost to maintenance and delivery.

- in relation to Public Bodies having to assess community bodies’ proposals. As set out in the policy memo, this work would include: ‘economic, social and environmental benefits of different proposals.’ and goes on to conclude: ‘The authority must agree to the request unless there are reasonable grounds for refusal.’ In Moray we have a Community asset transfer policy which clearly defines grounds for refusal and has a clear and transparent appeals procedure.

- The Bill places the responsibility of organising Community Right to Buy ballots on Ministers to appoint an independent person with knowledge and experience. This could fall to the Council if dealing with non council land this again could have resource implications for the Council.

- The presumption in favour of a Transfer of property regardless of the Councils usage of that asset means that unless an authority has reasonable grounds for refusal a transfer will take place this could lead to a loss of revenue and capital receipts.

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?

All communities are different and have different capacities and capabilities. One challenge will be to ensure that all communities, especially those that are disadvantaged and which don’t have the confidence or capability to engage local Public Sector organisations are supported and enabled to do so. This will require increased capacity to ensure those more disadvantaged communities are not disadvantaged further as assets could be transferred to more affluent and articulate groups and communities. Community Planning Partnerships are potentially well placed to support this agenda, as are the emerging Integration Joint Boards which have a duty to engage with local communities. The Bill and associated guidance can
support this work and focus through sharing good practice and research in relation to what organisations can do to maximise community capacity and capability.

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 would like to see the following:

- We would like to see a definition of community body as community of interest as well as geographical community needs to be included.

- To assist strengthen communities the legislation should contain reference or a statutory basis for the National Standards of Community Engagement it would provide a degree of quality assurance to the process of community engagement and empowerment in a new and improved context.

- The legislation or guidance should be used to empower local groups, for example to address the issue of Community Councils, membership, roles and powers of Community Councils. Community Councils have a role to play in any empowerment process but there are a number of limitations to their role. Increased powers and a clearer role will add relevance and interest amongst a wider constituency.

- Clarity on Timescales for transfers of assets. This would provide both community groups and Authorities with clear parameter which will assist in easing the transfer process.

- We would like to see an “Approval in principle stage” in the Community Asset Transfer section similar to the process contained in the Moray council CAT policy. This provides an important and effective safeguard to ensure community groups have a clear purpose and basis for developing a detailed sustainable business plan for any asset.

- Allowance for a period of dialogue and support prior to submission of an application. The Moray Council would reaffirm our initial response and request that the issues raised in this submission are included when secondary legislation is drafted. Again this provides groups with initial support and clarifies with the group if they have chosen the most appropriate asset and have a clear vision for future and sustainable use.

- We would reaffirm our request that the specific status of Common good is clarified. In terms of the bill freeing up those assets for community benefit may be a simpler solution in future than current processes for Common good. The bill does not provide a clear definition of common good and this leaves each of the 32 local authorities to deal with this issue.

- The Council has concerns that in the absence of a clear definition of “common good” the requirement and the process of creating a “register of common good assets would be made even more onerous.

- The duty to provide allotments would create for moray difficulties in resourcing demand. Our current allotment process is about encouraging and supporting a community based response to the provision of allotments.
In section 7 (paragraph 75 & 76) This was not mentioned in detail during the consultation and although giving additional protection to tenants, does create an onerous burden on local authorities and could restrict the number of sites within a local authority area which could be used as allotment sites.

In section 8 (paragraphs 83 & 84). Termination of the lease and the resumption of allotment site by the local Authority. Timescales for termination are lengthy at least 4 months where the tenant is in breach of any of the regulations and at least one year when the Local Authority wishes to dispose of or change the use of the land. These are timescales will have to be considered when identifying suitable land and could lead to restrictions on the number of potentially suitable sites. This detail was not contained in the consultation and does provide some comfort to Local authorities in that they can resume possession of all or part of an allotment site where that resumption is required for building, or for a variety of other purposes. However this is now going to be subject to ministerial consent so it is likely that the period of notice required may be longer than the 3 months in the Bill.

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?

Moray Council has no specific comments in this area other than the need to provide capacity building support to those who may be disadvantaged or experiencing inequality.