The Forest Policy Group welcomes this opportunity to submit evidence to the LGR Committee on the Community Empowerment Bill.

Forest Policy Group
The Forest Policy Group (FPG) supports the development of sustainable forestry in Scotland by producing well researched and authoritative policy guidance. Its membership is drawn from woodland management organisations, forestry and land use professionals and timber processors and users. The group subscribe to a view of forestry in which:

- environmental and social issues are treated as core parts of forestry on an equal footing with industrial timber interests; and
- diversity is actively fostered – diversity of tree species and woodland types, woodland ownership, management approaches, timber production and processing, and wider economic opportunities.

The group has produced position papers on a range of topics, including Forest Ownership by Andy Wightman\(^1\).

Our response to the Community Empowerment Bill

The Scottish Government is to be congratulated for producing a far sighted and innovative piece of legislation that will allow communities to better connect with, participate in and benefit from Scottish public assets. The FPG commends most elements of the CEB and we are hopeful that the Scottish Parliament will take into consideration our written evidence on the CEB.

FPG points for consideration:

1. The status of Forestry Commission Scotland as a Public Service Authority

We note that Forestry Commission Scotland (FCS) is included in Schedule 3 Relevant Authorities \((\text{introduced by section 51(1)})\) under the heading of Scottish Ministers. However FCS are not included in Section 2 Public Service Authorities \((\text{introduced by section 16 (1)})\).

We would like clarification on the status of FCS and the reason for its exclusion as a Public Service Authority. We recommend that FCS is included in the list of Public Service Authorities.

\(^1\) http://www.forestpolicygroup.org/
2. Part 4, Community Right to Buy Land – definition of the meaning of community

FPG believes that the meaning of a community body, as defined in Section 28 of the Bill, is too narrowly defined. Whilst we welcome the broadening of the eligibility of organisational types to include SCIOs, and any other body that Ministers specify in regulations, we believe that a community body should be defined by eligibility criteria, rather than specific organisational types.

Our starting point for criteria to define a community body would include:

- Being an incorporated body,
- Objectives consistent with sustainable development,
- Open membership within defined (usually geographic) parameters,
- Membership control,
- Non-profit distributing,
- Asset locked

Further, we feel it is inconsistent to include SCIOs as eligible community bodies but not other types of community organisation for example a community benefit society.

In Section 28(2) of the Bill, Ministers will be able to make orders allowing other organisational types of community bodies to be eligible. Our concern with this level of non-specificity is that there is no certainty as to when this might happen or what the mechanism for making an allowance order is. Clarification on these points is welcomed.

3. Part 5, Asset Transfer Requests

We believe that the treatment of a Community Transfer Body, as outlined in Section 50, and which includes the definition of a 'community controlled body', as outlined in Section 14 of the Bill, is good.

However there is a potential conflict between a community controlled body as defined in the CEB and the definition given in the Public Services Reform (Scotland) Act 2010, which restricts eligibility to companies limited by guarantee (Section 7C). This issue only applies to leasing for forestry purposes from Forestry Commission Scotland (FCS) and it arises from restrictions in the Forestry Act (1967) on FCS's ability to delegate its responsibilities.

This anomaly in definitions, whereby greater flexibility in the definition of a community body is required, could be dealt with by placing an amendment to the Public Services Reform (Scotland) Act 2010 in Schedule 4 (introduced by section 98(1)), Minor and Consequential Amendments.

We are concerned that there appears to be a catch all in Section 52(3) in respect of requests for transfer by purchase which conflicts with the flexible definition of Community Transfer Body, as outlined above;
Section 52(3) provides that a request for transfer of ownership of land may only be made by a community transfer body which meets the criteria set out in section 53, in addition to being covered by section 50. This means it must be a company, or a Scottish Charitable Incorporated Organisation (SCIO), or a body designated as a community transfer body under section 50, where the designation states that the body may make a request for transfer of ownership. Classes of bodies may also be designated as eligible to make a request for transfer of ownership.

This is a confusing piece of phraseology and it is not clear by what process and what criteria Ministers will designate a community transfer body in Sections 50(2) (a) and 53(1) (c) of the Bill.

The FPG suggest that Asset Transfer Request eligibility be applied to any incorporated community controlled body that has a written constitution as outlined in Section 14, and no restrictions on community definition; the manner of community body incorporation being open for Ministers to designate.

In conclusion, we hope that our submission contributes positively to the LGR Committee consideration of the CEB and we are happy to give further written and oral evidence.