Community Empowerment (Scotland) Bill
Response to call for evidence by Local Government and Regeneration Committee

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Edinburgh
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Dear Mr Wixted

Community Empowerment (Scotland) Bill – call for evidence

This is a joint response from the Accounts Commission and the Auditor General for Scotland to the Committee’s call for evidence on the Community Empowerment (Scotland) Bill.

We responded in September 2012 to the Scottish Government’s previous exploratory consultation on its proposals for a Bill. We also responded to the later 2013 consultation on the ten topics which had been identified for possible inclusion in the Bill. We therefore welcome this opportunity to provide a further response to the Bill itself, and are prepared to offer further input as required as the Bill progresses.

The Committee will be aware that the Commission and Auditor General carried out audits of the Aberdeen City, Scottish Borders and North Ayrshire Community Planning Partnerships (CPPs) during summer 2012. Our audit reports were published in March 2013 along with a national overview report drawing on the common messages from the three reports.

We are undertaking a further five audits of Community Planning Partnerships during 2014. Three of the audit reports have already been published (Glasgow, Falkirk and Moray) with the remaining two (West Lothian and Orkney) due to be published in October.

We will also be publishing a further national report on community planning in Scotland in November of this year. That report will not only summarise the findings of this year’s local CPP audits, but will also assess and report on the progress that has been made at a national level in supporting improved community planning since our March 2013 report Improving Community Planning in Scotland.

We will be happy to brief the Committee on the findings of that report once it has been published.
Local Government and Regeneration Committee

Sub mission Name: Accounts Commission for Scotland And Auditor General

Submission Number: 154

Our response to the Committee’s call for evidence is framed around the first four questions upon which the Committee is seeking responses. We have not commented on the assessment of equal rights, impacts on island communities and sustainable development as set out in the Policy memorandum.

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

In our response to the Committee’s inquiry into public service reform and local government in Scotland: Strand 3 (Developing new ways of delivering services) we highlighted the fact that new approaches to delivering services need to be designed with the user in mind and should focus on delivering the highest quality of services within the available budgets. Local people potentially have an important role to play in public sector service redesign. We noted at that time that the community empowerment and renewal agenda highlights the important role that communities can play in participating in new models of service delivery and developing models of co-production that draw upon the knowledge, skills and experience of local people in ways that maximise the impact and value of public assets (people, buildings, knowledge, etc.).

We made the point in that response that we believe that the public sector should consider extending collaboration and joint working with communities to deliver more efficient and effective services in the future where there is a strong evidence based case to do so. The proposals within the legislation to provide for community bodies, or groups of bodies, to request to take part in a process to improve outcomes are a useful addition to existing requirements on public bodies to consult and engage with communities and users of services. The practicalities of such collaboration will require careful thought, to reduce the risk of community disaffection as a result of over bureaucratic arrangements.

Similarly, the proposed extension of the right to buy legislation in the Bill to cover urban areas and the proposed introduction of a right for communities to request to take over a public asset should all give greater power to communities than currently exist.

It is useful that the Bill provides definitions of community bodies to help fulfil its purpose. The Christie Commission referred to the “myriad of overlapping ways in which people come together through a common set of needs, both as communities of place and communities of interest” and to the “benefits of working with service users at a community level to decide what will work for them”. This will be a complex undertaking for public bodies. Delivering the ambitions set out in the Bill will require a commitment to levels of consultation and engagement with communities and users of public services beyond those that we have seen by public bodies to date.
2) What will be the benefits and disadvantages for public sector organisations as a consequence of the provisions in the Bill?

The requirement for each CPP to prepare a local outcomes improvement plan will have significant impact on those organisations being given increased duties in relation to community planning. In our response to the Scottish Government’s previous consultation on the Bill, we noted that “the challenges involved in CPPs demonstrating a difference in outcomes will be substantial” and that “progress will require strong and sustained shared leadership and changed behaviours as much as good plans”. We have already noted in our March 2013 report *Improving community planning in Scotland* the improvements needed to single outcome agreements. Any shared plans will need to specify what will improve, how it will be done, by whom, for whom, when, what resources will be needed, and how progress will be measured and reported.

The proposed introduction of a range of new rights for communities will mean that many public sector organisations will need to establish new administrative systems and processes to support these changes, for example to deal with community participation requests or right to buy assets. This will have resource implications for the bodies concerned. More significantly, there will also need to be a willingness by public bodies to adopt fundamentally different ways of working with communities in the redesign and delivery of public services. Implementing the proposals contained within the Bill may challenge current ways of working within and across organisations and raise legal issues which may not be simple to resolve.

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?

In our report *Improving Community Planning in Scotland* we reported that many CPPs were rethinking how they consult with local communities with the aim of tailoring services around a clear understanding of local need by involving local communities in identifying local issues and deciding how best to respond to them. However, much of the focus was still on consultation and getting people involved. Therefore there is a long way to go before services are truly designed around communities and the potential of local people to participate in, shape and improve local services is realised.

It is crucial therefore that the Scottish Government and COSLA work effectively with local authorities and other public bodies to ensure that a culture that promotes effective engagement with and empowerment of communities is established. In addition, as the readiness and capacity of communities and service users to participate in contributing to improved public services is likely to vary widely, it is essential that appropriate support (guidance, training and financial resources) are made available to communities to enable them to participate effectively in contributing to improved public services.
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?

There are a number of aspects of the Bill that we would bring to the Committee’s attention:

- Part 1 of the Bill and its related policy memorandum are both clear that Scottish Ministers must prepare and publish reports about the extent to which the national outcomes have been achieved. But they do not specify who might receive these reports or what role, if any, the Scottish Parliament might have in holding Ministers to account for their achievement.

- Further in relation to Part 1, in our response to the previous consultation on the Bill, we noted that whilst the proposal to set national outcomes is, on the face of it, sensible, there are risks that the national focus of much recent reform activity can create tensions between national and local priorities for change. Further, if the commitment to set national outcomes is intended to provide greater clarity about trends in national performance, it is important to recognise that national outcomes can mask significant local variation in performance. Given this, it would be important that any national indicators that are set help assess how reductions in the wide inequalities of outcomes (health, life expectancy, educational attainment, etc.) that persist across Scotland are being addressed.

- Further in relation to Part 1, we note that the Bill commits Scottish ministers to prepare and publish reports about the extent to which the national outcomes have been achieved, and that these reports must be prepared and published at such times as the Scottish Ministers consider appropriate. We would suggest that there is benefit in being clearer about the frequency of such reporting, especially given the likely influence of such reports on the proposed annual reports of progress by community planning partnerships against their local outcomes improvement plan, as required under Part 2 of the Bill.

- Part 2, section 8 (governance) of the Bill does not in our opinion clearly set out how the governance and accountability arrangements for the proposed community planning partnerships are expected to operate, not least in relation to auditing arrangements. This includes in particular how the performance of CPPs as partnerships will be assessed, and how they will be held to account for the discharge of the duties set out in the Bill, including their progress against outcomes. This seems a significant gap.

- In its previous consultation on the Bill, the Scottish Government asked “how might the legislation best capture the community leadership role of councils without the CPP being perceived as an extension of the local authority?”¹ The Bill seems silent.

¹ Scottish Government, Consultation on the Community Empowerment (Scotland) Bill, 6 November 2013, question 58, p.38.
on any community leadership role of a local authority, given its repeal of the duty on a local authority to facilitate community planning in the 2003 Local Government in Scotland Act. In our response, we stated that “it is difficult to predict what might happen were the specific duty on councils to ‘initiate, facilitate and maintain’ the community planning process to be repealed”. The Committee may therefore wish to explore the implications of this.

- At present, for many CPPs the resources to support the community planning process are predominantly provided by the local authority through community planning officers and/or teams employed by and working within the council. Section 9(3) of the Bill requires partners to commit resources to support community planning. But the Bill appears to be silent on the extent to which the resourcing of the administration of the community planning process should be seen as a partnership task.

- In relation to Part 5 of the Bill (asset transfers), in our response to the Scottish Government’s previous consultation on the Bill, we noted that it would be necessary to be clear about what would happen in case of failure by the community to make effective use of the asset. The Bill seems silent on this issue.

We hope that this response provides a useful reflection of our experience so far from our Best Value audit work and scrutiny of community planning, and of our responsibilities in holding public services to account and encouraging improvement. We are of course willing to share further reflections as appropriate, as the process for the Bill continues.

Yours sincerely

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Chair, Accounts Commission for Scotland

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