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Convener

Local Government and Regeneration Committee

Room T3:40

The Scottish Parliament

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17 December 2014

Dear Kevin,

COMMUNITY EMPOWERMENT (SCOTLAND) BILL

Thank you for your letter of 9 December regarding the timescales pertaining to asset transfer requests. You asked for clarification on section 56(5) and the requirements on a relevant authority to conclude a contract within 6 months.

The scenario you outline in your letter is that a relevant authority has agreed to an asset transfer request, given notice of its decision to the community body, specified the terms of the transfer, lease or other arrangement and has received an offer from the community body. The relevant authority then deliberately delays the conclusion of the contract so that the process ends and is treated as if the asset transfer had not been agreed.

While I believe that this scenario is unlikely to happen in practice it is useful to outline how the provisions in the bill as it stands could deal with such an event. As set out in sections 56(5) and 56(7) the period for concluding a contract is 6 months, or a longer period which is agreed between the relevant authority and the community transfer body. If the relevant authority does not agree to extend the period, the bill allows the community transfer body to apply to the Scottish Ministers under 56(8) to direct that the period should be extended. This can be done more than once. This would allow the period to be extended should there be any delay in concluding the contract – arising either from the relevant authority or the community transfer body – so that the offer would not lapse. It is also worth noting that section 57(2) would apply so that the authority could not dispose of the land to which the request relates to any person other than the community transfer body during the period from the decision notice being issued to the day the period specified in a direction expires.

We have no plans to amend these provisions. Property transactions can be complex, and issues may arise which take time to work out, or which ultimately make the transfer unachievable, despite the best intentions of both parties. While I am always ready to listen to any views and look at new proposals if they improve the Bill, I am not sure that it would be practicable to introduce a timescale for relevant authorities to adhere to, with sanctions, which could be applied in all cases. That is why the Bill provides the flexibility of Ministerial direction in these circumstances.



MARCO BIAGI