Submission to Local Government and Regeneration Committee’s call for evidence on the Community Empowerment (Scotland) Bill

Scottish Community Development Centre
4th September 2014

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

SCDC has published a briefing on the Community Empowerment (Scotland) Bill, which is primarily focused on the above question. The full briefing can be read at: http://www.scdc.org.uk/media/resources/policy-and-practice/SCDC_Towards%20Empowerment.pdf.

In summary, our interpretation is that the Bill proposes to reflect the policy principles of subsidiarity, community empowerment and improving outcomes through providing a legislative framework to:

- “empower community bodies through the ownership of land and buildings, and strengthen their voices in the decisions that matter to them”, and to
- “support an increase in the pace and scale of public service reform by cementing the focus on achieving outcomes and improving the process of community planning”

The detail in the Bill confirms that the provisions do indeed fall within these two key aims, but we agree with the Committee that it is important to consider the extent to which these aims might empower communities, especially in respect of the new duties on community planning. **Our response to the Committee is therefore focused primarily on the provisions of the Bill concerned with the empowerment of communities through the community planning process.**

The logic of the provisions is that community planning will be strengthened and more clearly focused on outcomes; while the community empowerment element will essentially be the extent to which community “voice in decisions that matter” will be strengthened. If the provisions of the Bill are to succeed in empowering
communities we need to question where the locus of power lies and the ways in which it should be channeled.

The policy memorandum distinguishes between community empowerment and community engagement, by arguing that: “it is important that community voices are heard in public sector processes, but that this engagement differs from community empowerment, where communities lead change for themselves.”

If this is the case we would argue that the draft legislation, in respect of community planning, implies an important shift in the relationship between communities and public services from recent years, but not necessarily a shift towards more empowerment. Until now, engagement was seen as a mutual relationship between communities and public agencies, as expressed in the National Standards for Community Engagement, which define community engagement as:

“Developing and sustaining a working relationship between one or more public body and one or more community group, to help them both to understand and act on the needs or issues that the community experiences”¹

This definition of engagement is a much stronger statement than simply “hearing community voices”. It clearly acknowledges that many communities, in particular disadvantaged and disenfranchised communities, are not always in a position to lead change for themselves as they do not always necessarily have the resources or confidence to do so.

The Policy Memorandum (para 11) argues that community empowerment is a key plank of public service reform, and this should result in “strong, independent and resilient” communities that are “best placed to determine outcomes for local services” and, therefore, public service providers should fully engage communities in decisions about the design and delivery of services to achieve such outcomes. This raises interesting questions about the anticipated relationship between ‘empowerment’ and ‘engagement’ in improving service delivery and other outcomes.

If, in policy, effective engagement remains the critical factor for effective community planning, we would argue that the Bill does not go far enough in its requirement to “consult such community bodies as it considers appropriate” in preparing the local outcomes improvement plan. Instead, this part of the Bill should specify that community planning partners should ‘engage’ with community bodies, and that this engagement should be in line with the definition of community engagement embodied within the National Standards for Community Engagement.

¹ [http://www.scotland.gov.uk/Topics/Built-Environment/regeneration/engage/standards](http://www.scotland.gov.uk/Topics/Built-Environment/regeneration/engage/standards)
Furthermore, we reiterate our desire to see the National Standards for Community Engagement, endorsed, tested and proven by a range of agencies including Scottish Government, placed on a statutory basis within this Bill as a framework for guiding and assessing the extent of community planning partners’ commitment to involving and empowering communities.

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

The provisions of the Bill are clearly in the spirit of public service reform, given their emphasis on strengthening collaboration and partnership between public bodies in assessing needs, designing solutions and delivering change through a more robust community planning process. Equally, the rights for communities to request participation in an outcome improvement process opens opportunities for greater and more purposeful engagement with communities, and this is consistent with the reform objectives of decentralisation, prevention and co-production.

We believe that the ways in which each public sector organisation provides its services and whether or not they utilise participatory practices will be the key factor in the way benefits and disadvantages come to be distributed.

These provisions will be welcomed by those public service organisations that see themselves as working with the grain of civil society, with communities and community organisations, and with an enabling, developmental philosophy.

It will be a greater challenge for organisations that continue to operate a traditional, top-down, consumer model, and those that, to date, have not been committed to community planning/community engagement. For such bodies, the Bill may well appear to be disadvantageous as it may be seen as a potential distraction or obstacle to their ability to meet centrally driven targets.

However in response to the larger question of whether the Bill is likely to encourage public sector organisations in the direction of public service reform principles, our opinion is that it will be broadly beneficial.

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?

While we welcome the provisions that better enable communities to take more control over land and buildings, and to have the right to request participation in outcome improvement processes, we question the extent to which these provisions, in isolation, will empower those communities that are excluded or marginalised, or who are unaware of the rights enshrined in the Bill.

In general, SCDC is of the view that the provisions concerning participation requests
will potentially be very useful to “community participation bodies” (as defined by the Bill) to trigger action on a concern or opportunity, in the knowledge that it will be a legal requirement for the CPP to respond and react. We do, however, have some concerns about the way these provisions may operate in practice and which groups and organisations utilise the legislation.

As with other aspects of the Bill, the key issue is the extent to which the provisions may serve to further empower those communities that are organised and influential, while not achieving meaningful change for marginalised or excluded communities, or those with weak infrastructure. Such communities may well be unaware of the rights they will now have, or be aware of them but may not currently have the capacity to take advantage of their rights without impartial support and advice.

From our consultations on the Bill with community groups and community development practitioners, and from our experience in working directly with local communities, we know that, in order to benefit from the Bill, disadvantaged and marginalised communities often need assistance to:

- find common cause on issues that affect them
- work together on such issues under their own control
- build local independent networks
- build equity, inclusiveness, participation and cohesion within their organisations and within the wider community
- influence and help transform public policies and services and other factors affecting the conditions of their lives
- advise and inform public authorities on community needs, viewpoints and processes
- work in partnership with public services

Community-led anchor organisations such as community development trusts, community-based housing associations or representative councils can play a leading role in gathering intelligence and information about the community, understanding community needs and issues and working with public services to improve outcomes, or to provide services directly.

Where such anchor bodies do not exist, or where they do not enjoy the support of the whole community, community development approaches can help build a stronger network of interests, groups and organisations; and can help assess needs and issues, ensure engagement is conducted well, and assist with evaluation and learning lessons.

In section 10 (3) of the Bill, it is recognised that funds, staff and other resources need
to be committed by community planning partners to secure the participation of community bodies in setting local outcomes.

We strongly recommend that similar provisions should apply in the case of participation requests, and more broadly, in order to achieve a level of equity in the way communities may access and use the legislation.

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 believe the Bill is limited in its ambitions and is informed by a centralised view of governance and government, rather than the more participatory model as advanced in the Christie commission report and elsewhere. We agree with the recent report of the Commission on Strengthening Local Democracy report where it argues that:

“The Community Empowerment and Regeneration (sic) Bill contains many interesting ideas, but its major thrust is still within a relatively centralist mind-set in this regard. Communities have the right to take proposals for asset transfer or outcome improvement to national or local government, but it is for them to decide and there is no appeal. In other words, communities have to persuade government and local government to “cede” powers. This seems like the reverse of subsidiarity, and the Commission’s view is that this tends to keep us where we are rather than taking us forward.”

In addition, SCDC is concerned with questions of equality of access to the new rights in the Bill, fearing that it could further empower the best organised communities at the expense of the most vulnerable and disadvantaged. **Rebalancing power in favour of the least powerful is more important than a broad-brush intention to empower.**

In response to this, we recommend that priority is given to supporting disadvantaged communities to enhance their power and influence through direct work in communities to support local people to articulate and address their own issues and concerns, through building confidence and developing community relationships and through supporting community-led organisations to take advantage of the provisions of the Bill.

We believe that the specific provisions of the Bill could be improved by:

- Replacing references to ‘consult’ in the Community Planning provisions

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with a requirement to ‘engage’ (as defined in the National Standards for Community Engagement)

- Aligning with the way in which the regulations have been framed to support community learning and development\(^3\), by incorporating provisions which place a specific requirement on community planning partners to plan services with the full involvement of communities (in line with the National Standards for Community Engagement)

- Placing a similar requirement on community planning partners to commit funds, staff and other resources to engage purposefully with community bodies and respond meaningfully to participation requests, as is proposed for securing the participation of community bodies in setting outcomes

Furthermore, we recommend that the Committee, as part of its scrutiny of the Bill, explores the following questions:

- Given the recognition within the documents accompanying the Bill of the need for resources and support to back up the Bill’s empowering potential, what is the existing and planned policy that will meet this need?

- If such support does not currently exist, what needs to happen to put it in place?

- What additional benefits might be accrued from the reinstatement, into the Bill or accompanying support and guidance, of proposals outlined in the legislation at draft stage, namely:
  
  - A requirement for the publication of community engagement plans
  - A named community engagement officer
  - The adjustment of procurement in favour of community groups,
  - The right for communities to be consulted on local budgets
  - Enforcement of the sale of empty property
  - Changes to the status of community councils

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

SCDC is satisfied with paragraph 106 and those following, where the implications of the Bill from the perspectives of human rights, island communities and sustainable

\(^3\) The Requirements for Community Learning and Development (Scotland) Regulations 2013
http://www.educationscotland.gov.uk/communitylearninganddevelopment/about/ssi/index.asp
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Development are considered and reported. In the body of the Bill the main references are to the question of sustainable development, and in several places it is proposed that the transfer of land and assets, particularly derelict assets, will be in the interest of sustainable development.

While we support the transfer of land and assets to community use we do not believe that such use will, of itself, necessarily be sustainable. Proposed uses of land by communities will presumably be governed by planning, licensing and environmental legislation and it is here that we would expect the issue of sustainability to be to be scrutinised.