Local Government & Regeneration Committee
enquiry – Community Empowerment Bill
SCVO response
05 September 2014

Summary

- The Community Empowerment Bill is a small part of the change required to enable more empowered communities
- The primary role for government and the public sector in this agenda is a supportive one, which enables community empowerment but does not direct or control it
- Involving people in top-down public sector-led agendas is not community empowerment and can in many instances be disempowering
- The barriers that communities face are rarely just legislative - culture and attitude are much more likely to restrict a community’s development

Comments on the Bill

- To give communities a greater say over local spending priorities, 10% of the total budget for the public sector in each local authority area could be allocated for participatory budgeting processes
- We support the introduction of a single, clear process for the transfer of assets to communities from public bodies
- We would like to see the bill amended to include a duty on public bodies to maintain an asset register and publish asset management plans
- We support changes to the land reform legislation which would extend the Community Right to Buy to all communities in Scotland
- We are concerned that the definition of ‘neglected or abandoned’ used for the new part 3A of the Community Right to Buy could prove an impossible barrier for communities to overcome in rural areas
Local Government and Regeneration Committee

Submission Name: Scottish Council for Voluntary Organisations

- The right to improve outcomes of service delivery could disrupt the positive ways that third sector organisations and public bodies already work together

Our response

SCVO has worked extensively on the Community Empowerment Bill since its inception in 2011. This response draws from a large number of discussions held with our members, third sector intermediary bodies and our Policy Committee over that period. Most recently, SCVO convened a group of third sector organisations to discuss what is needed ‘beyond the Bill’ to empower communities. The main points arising from these discussions have been incorporated into this response.

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

The Community Empowerment Bill is one small part of the change needed to enable more empowered communities. It is vital that this Bill is considered in those terms and not seen as the totality of the approach that is required. It is our view that the impact of the Bill itself on community empowerment will be minimal unless there is a wider strategy adopted.

As a starting point it should be clear that governments, public sector bodies, politicians and third sector organisations don’t empower communities. Communities empower themselves. The role of all the agencies involved with this agenda should be a supportive one that does not seek to direct or control.

The Bill includes a mix of legislation that has been brought forward to achieve different purposes. This can make the policy objectives of the Bill seem at times incoherent. By mixing legislation on land reform and asset transfer with measures on community planning and public service reform, the Bill adds to the confusion that exists between community empowerment and community engagement. This is despite page 3 of the Policy Memorandum for the Bill making it clear that the Scottish Government understands the distinction: “The Scottish Government is clear 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 it is done well, we support people and communities having a greater say in the improvement of public services and other local decision making processes. However, involving people in top-down public sector led agendas is not community empowerment and can in many instances be disempowering.

A bottom-up process of genuine community empowerment involves a community coming together collectively and pursuing a set of shared objectives through a collaborative effort. The best expression of this type of empowerment can be seen in the many Development Trusts or Community Land Trusts that have taken their own future into their hands. They set the agenda, decide their priorities and lead the development of their own communities.
Local Government and Regeneration Committee

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Submission Number: 55

The Royal Society of Edinburgh ‘Community Empowerment and Capacity Building Paper’ gets to the heart of the issue:

“The extent of the power shift is less pronounced if a ‘top-down’ approach is favoured, because agenda design remains with the relevant public body, and community action is only sought when the implementation phase is reached. However, this approach falls short of genuine empowerment. The ‘bottom-up’ approach, which sees the identification of local agendas and desired outcomes taking place at the grassroots level, requires that a much larger degree of power and trust be handed to communities. By this approach, it truly is the community which identifies the societal challenges it wishes to see addressed, and it is the community which designs the processes to address these and to deliver the changes it wants. If empowerment is to be an aim of public policy, taking a bottom-up approach will be necessary and inevitable.”

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

The net effect of the Bill on public sector organisations should be positive. Hopefully the Bill will become part of a wider reform of the way public bodies interact with communities. If successful it could lead to greater and more equal collaboration that will deliver significantly improved outcomes. Changing the culture in public bodies to provide a more bottom-up approach to their work is vital. We welcome the contribution of the Commission on Strengthening Local Democracy to this debate:

“A fundamental review of the structure, boundaries, functions and democratic arrangements for all local governance in Scotland based on the principles of strengthening local democratic accountability, subsidiarity and public service integration in order to localise and simplify accountability of public services to local communities.”

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?

The ability of communities to take advantage of the provisions in the Bill can be shown from the many successful community projects which have already been taken forward. Significant and challenging projects from North Harris to Cassiltoun, demonstrate the scale and diversity of successful projects that have been achieved in communities of all types. However, there are also communities that have been unable to achieve their objectives. The reasons this happens are complex and can range from financial problems to volunteer fatigue. If we wish to see more success, then creating the right conditions for communities to thrive should always be the priority and there are a number of practical ways this can be achieved.

Different communities have different capacities and will therefore need different types of support to realise their ambitions. It is important to recognise that this isn’t as simple as saying disadvantaged or poorer communities will need greater support. Many communities have
significant social capital but might need specialist advice to cover a skills gap. Many deprived communities are perceived as disempowered but the reality can be that they are better connected, more united and have the capacity to undertake fantastic projects and influence decision making. Appreciating this complexity and diversity of communities is crucial.

Guidance or support should be accessible to communities and available at the time when they require it. The Development Trusts Community Ownership Support Service is a good example of how to approach this.

There should be a greater priority given to sharing of ideas and experience between communities and bridging skills gaps by establishing connections between communities. Research on Community Land Trusts vi showed how significant external connections are in creating more resilient communities. Schemes such as the Scottish National Rural Network Project Visits or the DTAS Knowledge & Skills Exchange Fund should be supported to provide further opportunities for establishing these connections.

Funding is hugely important, particularly in the early stages of a community’s development, to support voluntary effort and help get projects of the ground. Finance of this type is best invested directly in the organisations communities have established to progress their priorities. We would like to see additional funding assigned to these ‘Community Anchorviii organisations that perform this role and bring other community activities together.

The People and Communities Fund is a good example of the problems with current funding programmes and the reluctance from Government to trust communities to set their own priorities. Despite being established for ‘community-led regeneration’, the fund prescribes outcomesviii for applicants to conform to. If outcomes are decided in a top-down way, it is not community-led regeneration. The Strengthening Communities programme is a positive step forward but needs additional support. Funding programmes for empowerment must have open outcomes that allow for the breadth of activity that communities wish to undertake.

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?

Part 1 National Outcomes
We are generally supportive of the proposal to embed Scotland Performs and the National Performance Framework in legislation. This could improve accountability of reporting mechanisms while offering greater opportunity for more people to become involved in the process of deciding outcomes. The key to the success of this proposal is the process that is developed to implement it and how participative and inclusive it is.

Part 2 Community Planning
We question the relationship between these proposals and community empowerment. It is difficult to see how the proposals for community planning outlined in this Bill will empower communities as they mainly concentrate on tightening up and enshrining in legislation processes which have proven to be unsuccessful in improving outcomes or engaging communities.
It is difficult for us to see how the Bill will reverse that trend. A better way to improve community planning would be to build on good practice examples of partnership working which can be replicated across CPPs.

Both third sector and statutory agencies are often at the forefront of producing exemplar projects, responding quickly to change and working closely with the people they support to deliver positive outcomes. We must learn from what made these projects successful, particularly where they involve partnerships between third sector and statutory agencies. We can then use this learning to nurture similar initiatives in other areas - up-scaling, replicating and adapting where needed. We hope the outcomes from the new 'What Works Scotland’ centre will contribute to this.

Part 3 Participation Requests
There may be some value in legislating for this process. Allowing organisations to initiate a process to improve services could open up discussions between communities and public bodies. However, its effectiveness will still be dependent on the culture and attitudes within the relevant public body. Improving the understanding of participative approaches within public bodies through training or demonstrations of good practice is more likely to achieve success than bringing forward legislation that could be ignored or regarded as a nuisance by these bodies.

We are also concerned that introducing this process might disrupt the positive ways that third sector organisations and public bodies already work together. The formal process that has been proposed might disrupt positive interactions which already take place if it becomes the main route for engaging the sector in improving public services.

1. We would like to see an appeals mechanism created for this process that provides an additional route for communities to take if their request is declined.

2. We are concerned that the legislation as drafted wouldn’t permit a community to initiate an outcomes improvement process for a service that does not already exist. This would prevent communities from working with public bodies to design and develop a new service in their area that is a priority for them.

3. We are disappointed that this single mechanism is the only concrete proposal for increasing participation in the decision making and the design and delivery of public services. The Scottish Government’s single line in the Policy Memorandum to offer consultancy support for local authorities to develop participatory budgeting in their areas is insufficient and underwhelming.

4. We welcome the Commission on Strengthening Local Democracies' commitment to participatory democracy:

“The right of individuals and communities to local democracy needs legislative expression through a clear duty in law to support and resource participation in decision making.
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Democratic innovations such as deliberative assemblies, participatory budgeting and citizen scrutiny of public services should also become the standards by which this is delivered in Scotland.\textsuperscript{xv}

“Implementing arrangements for participatory budgeting that go beyond a consultation on predetermined options for budget cuts, and instead focus on local tax and spend priorities.”

5. We would like to propose a considerably more ambitious approach to participation than that proposed by the Bill.

In order to give communities a greater say over local spending priorities, 10% of the total budget for the public sector in each local authority area could be allocated for participatory budgeting. This would have a number of benefits:

- Improved collaboration between public agencies
- Greater participation in democratic processes
- Greater transparency and accountability in public spending decisions
- Improved trust between communities and public bodies
- Greater understanding of the public’s views
- Improved outcomes that genuinely reflect people’s priorities
- Increased social capital

We are under no illusions that this would be challenging to achieve on a practical basis, but it is our view that the benefits would make it worthwhile. Scotland’s experiments with participatory budgeting have so far been small scale, we could be much more ambitious and give the public a real say over the priorities for spending in their area. This could involve a wide variety of models from local authority level processes with large budgets being considered, right down to the neighbourhood level with small amounts being assigned. The schemes that have taken place in Porto Alegre in Brazil were undertaken with as much as 18% of the overall budget allocated\textsuperscript{xi}.

Part 4 Community Right to Buy Land

We support changes to the Land Reform legislation which would extend the Community Right to Buy to all communities in Scotland. We appreciate that there will be different opportunities and challenges in urban communities that require further investigation but we see no reason why they should not enjoy the same rights as rural areas.

1. We welcome the introduction of part 3A which will provide a Right to Buy without a willing seller. This will provide a last resort for communities by giving them the right to buy land if it can be shown to be in the public interest and important for sustainable development.

2. We are concerned that as the legislation stands the current definition of “neglected or abandoned” could prove an impossible barrier for communities to overcome. This will be
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particularly problematic in rural areas where landlords wishing to avoid coming under the scope of legislation could easily claim that land is being returned to a more natural state.

3. We would like to see the Bill amended to remove the limitation to “company limited by guarantee” in part 3A. Scottish Charitable Incorporated Organisations (SCIOs) should also be able to access these rights as they can do elsewhere in the Bill.

4. While we support this radical change in the underpinning presumptions about ownership, there would be a responsibility on the community to establish that they have the will and capacity to take on the responsibilities of ownership, and that they have pursued other avenues before seeking to exercise this right.

5. The amendments made to part 2 of the Land Reform Act are on the whole very welcome and should simplify the process for communities. However, we would not support the additional requirement for community bodies to make minutes available within 28 days. There is no justification provided for this in the policy memorandum and it would place an unnecessary and impractical burden on organisations.

We would recommend that the Committee pays particular attention to the submissions from Community Land Scotland and Community Woodlands Association whose experience and expertise in this area allows them to give a more detailed consideration to the specific provisions in part 4.

Part 5 Asset Transfer Requests

SCVO supports the transfer of assets to communities, provided that the community has an active desire to take ownership of them. Whilst recognising the benefits of asset ownership, we welcome the Bill’s support for management of assets, which will hopefully ensure the most appropriate model is available to each community.

It is vital that communities have as much information as possible prior to taking control of an asset. Knowing the yearly running costs and potential rental value as well as details of impending repairs or maintenance costs would all be vital information to a community’s assessment of whether to obtain an asset and should therefore be easily accessible. Legislation or regulations must ensure that this type of detail is made available to communities prior to any asset transfer so they can make an informed decision.

1. We support the introduction of a single, clear process for the transfer of public sector assets to communities that has been outlined in draft legislation.

1. We are disappointed that the Bill does not provide a duty for public bodies to maintain and publish an asset register. Knowing what assets a public body holds which could be made available for community use would be a significant resource for communities. It would allow them to look at all the assets in their area and identify those which would suit their purpose.
2. As well as maintaining a public asset register we would like to see a duty on public bodies to publish asset management plans. As communities play an increased role in delivering public services and owning and managing assets, they should also have the opportunity to contribute to the development of these plans.

3. If this process is to be successful it will be necessary to clarify the situation around the valuation of assets and how they can be transferred from public bodies at less than market value.

The Development Trusts Association has significant and valuable experience in this area and their response to these proposals should be given particular consideration.

Part 6 Common Good Property
We support the introduction of an asset register and proposals to consult on the disposal and use of common goods assets. These assets are valuable to communities, so we support provisions which would create greater involvement from communities in the decisions made about these assets. However, we recognise the limitations of the approach being taken by the Bill and note the recommendation of the Land Reform Review Group: “The Group recommends that a new statutory framework should be developed to modernise the arrangements governing Common Good property.”

This should look to develop a statutory definition of common good, the right for communities to take back the assets that were foregone in 1975 and provide additional rights for communities to own and manage common good assets.

Part 7 Allotments
We support the proposals outlined for the provision of allotments by local authorities. Underused and unused land is one way of meeting the demand for growing spaces but sites must be suitable and free from contamination to be viable. This means prioritising and setting aside uncontaminated sites for use as allotments or community growing spaces.

The use of land for therapeutic projects, such as the models developed by the care farming, therapeutic gardening or the men’s sheds movements should also be supported by local authorities, both as a way of making better use of assets and also as a part of a support for wellbeing and early intervention strategy in partnership with NHS and other agencies.

We would encourage the committee to pay particular attention to the response from the Scottish Allotments and Gardens Society who have done extensive work with their members on these proposals.

Part 8 Non-Domestic Rates
We have no comment on this proposal.
Conclusion
We welcome the central role that community empowerment now occupies in public policy. However, we have concerns about the priority given to community engagement and the extent to which the policy has translated to change on the ground. Culture and attitude must be addressed and support provided to communities to help them achieve their own ambitions. The primary role for government and the public sector in this agenda must always be a supportive one which enables community empowerment but does not direct or control it.

We are supportive of the introduction of proposals for transferring assets to communities from public bodies but are disappointed that an asset register has not been legislated for. Bringing Community Right to Buy legislation to all communities, introducing an absolute Right to Buy and improving the processes involved in the Land Reform Act is an important step. We are disappointed that Participatory Budgeting was not included in the Bill and would like to propose that 10% of the total budget assigned for the public sector in each local authority are should be assigned to a participatory budgeting process.

Web: www.scvo.org.uk

About us
The Scottish Council for Voluntary Organisations (SCVO) is the national body representing the third sector. There are over 45,000 voluntary organisations in Scotland involving around 137,000 paid staff and approximately 1.2 million volunteers. The sector manages an income of £4.4 billion.

SCVO works in partnership with the third sector in Scotland to advance our shared values and interests. We have over 1500 members who range from individuals and grassroots groups, to Scotland-wide organisations and intermediary bodies.

As the only inclusive representative umbrella organisation for the sector SCVO:

- has the largest Scotland-wide membership from the sector – our 1500 members include charities, community groups, social enterprises and voluntary organisations of all shapes and sizes
- our governance and membership structures are democratic and accountable - with an elected board and policy committee from the sector, we are managed by the sector, for the sector
- brings together organisations and networks connecting across the whole of Scotland

SCVO works to support people to take voluntary action to help themselves and others, and to bring about social change. Our policy is determined by a policy committee elected by our members.

Further details about SCVO can be found at www.scvo.org.uk.
http://www.scottish.parliament.uk/S4_Bills/Community%20Empowerment%20(Scotland)%20Bill/b52s4-introd-pm.pdf


http://www.north-harris.org/

http://www.cassiltountrust.org.uk/

http://www.sruc.ac.uk/downloads/file/16/community_land_ownership_and_community_resilience_-_full_report_low_resolution

http://www.localpeopleleading.co.uk/on-the-ground/anchor-orgs/

http://www.scotland.gov.uk/topics/Built-Environment/regeneration/community/pcf

http://www.whatworksscotland.ac.uk/


http://www.participatorybudgeting.org.uk/models/1-funding


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