Scottish Community Alliance (SCA) is a coalition of national networks that provide specialist technical advice and opportunities for peer to peer support across a broad range of community based activity that takes place throughout Scotland. Many of these intermediary networks have developed a body of knowledge and expertise which relate to specific measures proposed in the Community Empowerment (Scotland) Bill. For instance, Community Land Scotland, Community Woodlands Association and Development Trusts Association Scotland have significant expertise in relation to the provisions which seek to extend the Community Right to Buy and simplify and improve the provisions contained in the Land Reform (Scotland) Act 2003. Some, like Scottish Allotments and Gardens Society, Nourish and Federation of City farms and Community Gardens have a special interest in those proposals that relate to allotments and the expansion of community growing and will be providing expert evidence in that regard. Others have a more general interest in the broader principles of community empowerment and may offer some comment or detailed evidence on that basis. The evidence submitted here by SCA will not replicate the detailed evidence and analysis of its member networks. Instead SCA seeks to offer some general comments on the measures proposed by the Bill.

During the early consultations on the Bill, SCA took the view that legislation of this nature should be underpinned by some ‘first principles’ of community empowerment. These are:

1. **Subsidiarity** is an organising principle that should inform all aspects public policy in Scotland and be at the heart of the new legislation on community empowerment. The principle of subsidiarity requires any matter to be handled by the smallest, lowest, or least centralised authority capable of addressing that matter effectively.
2. **Self-determination.** Local people should be allowed to determine for themselves how their community is defined and which local organisational structure is best suited to take forward their programme of local empowerment.
3. **Local people leading.** Community empowerment only occurs when local people lead the process of taking power and resources to themselves. Communities empower themselves through bottom-up activity and the evidence points to the fact that better outcomes are invariably achieved when this occurs.
4. **Land and self-generated income.** Ownership of land and control over land use, and the capacity to generate income streams which are independent of the state, are critical in determining the degree to which a community is able to empower itself.

1. To what extent do you consider the Bill will empower communities?
This Bill needs to be seen as one element in a series of related policy developments, particularly over the past five years. When Scottish Government and COSLA launched the Community Empowerment Action Plan in 2009, Alex Neil MSP, the Minister of Housing and Communities described community empowerment as a journey with no fixed destination with the Action Plan being just one of many staging posts along that journey. The Action Plan had special significance because it represented the first time that the Scottish Government had published a formal policy position in relation to community empowerment. And since 2009, the policy context has become steadily more encouraging and supportive of community empowerment.

The most recent national regeneration strategy published in 2011 – Achieving a Sustainable Future – being another example of this change. This new strategy, with its focus on community led regeneration, reflected a clear departure from previous approaches (which had been predominantly top down and led by investment in physical infrastructure) by acknowledging that these regeneration efforts had largely failed to achieve the desired outcomes, and in any event were now ‘fractured’ as a result of the financial crisis in 2008. The crisis in our system of public services identified by the Christie Commission (2011) and the new emerging consensus around the value of co-produced services, added further weight to the view that communities would have a central part to play in the design and delivery of public services in the future. The developing land reform agenda, and the emergence over the past ten years or so of a vibrant community sector based on the ownership of land and other asset classes, have further contributed to a general policy environment into which a Bill of this nature can only be viewed as adding further momentum.

However, we are aware that that the principal driver behind this Bill is the Scottish Government’s commitment to the public service reform agenda rather than any belief in the intrinsic value of community empowerment as a ‘social good’ in its own right. That said, this Bill contains new opportunities that communities can take advantage of and, if they do, these communities are likely to become more empowered than they otherwise would be. It has often been said during the course of the consultations for this Bill, that legislation cannot empower communities - only local people can empower themselves. Therefore, it is important to be clear that the Bill on its own is only going to present opportunities that local people may or may not be able to take advantage of. The extent to which local people choose to, or are able to, take advantage of these opportunities will inevitably vary across the country and be determined by a range of other factors – some internal, some external. These factors may be categorised as capacity (skills, experience, confidence and access to external networks), resources (funding and human), and the immediate context (supportive public agencies, local development opportunities). Each of these factors will need to be addressed if the full potential of this Bill is to be maximised.

One further point is worth making in the context this section. The debate around community empowerment is heavily shaped by the extent to which communities have been able to engage with the current system of local government. Concerns about the health of Scotland’s system of local representative democracy are well documented and most recently these have been laid bare in the final report of The Commission for Strengthening Local Democracy. It could be argued that the current level of interest in how communities can be empowered correlates directly with the level of concern about this democratic deficit. In other words, if this deficit in the quality of local democracy was to be resolved, the community empowerment debate might well be very different. It could also be argued that the proposals
within the Bill to enhance levels of community empowerment are in effect only compensatory measures for a deeper problem within local democracy.

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

While it is true that only communities that can empower themselves, it is equally true that public sector organisations are not passive around this process – they can either play an enabling role or they can play an obstructive one but they cannot be neutral. If those in the public sector choose to see the community empowerment process as an opportunity that can assist them in the design and delivery of public services at a time of ever decreasing resources, then there are very significant benefits to be gained. If on the other hand, they see it as a threat or an unnecessary distraction at a time of ever more scarce resources, then trouble lies ahead. At the heart of this policy shift towards community and co-produced solutions lies a requirement for an openness to new thinking and ways of working. Changing attitudes and culture on this scale is very difficult to bring about in large organisations and remains one of the biggest obstacles to be overcome. If public sector organisations are able to view an empowered community sector as a partner, with parity of esteem, within the community planning process then significant long term benefits may well accrue.

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?

All communities are different, have widely varying capabilities and levels of capacity with which to take advantage of opportunities as they present themselves. There is well researched evidence to show that when resources are scarce, those communities with ‘sharp elbows’ end up with the lion’s share of what is available. Given the absence of a level playing field in this respect and in the interests of supporting those communities where need is greatest, there is going to have to be substantial investment in compensatory measures. But this is not just about resources – although that is important – it is as much, if not more so, about how these resources are allocated. Since the days of New Life for Urban Scotland, 100’s of millions of pounds have been spent and much of it wasted in the name of community regeneration. In particular, much of this wasted investment has been in short term, revenue funded projects with no eye on the long term sustainability of the regeneration process, with many of these projects conceived of and parachuted into these communities in top down fashion. If this fundamental problem is to be addressed, there requires to be a serious reappraisal of how the key issues of trust and risk are to be managed in the future. In the past, by effectively controlling all decisions of how and where regeneration investment was to be made, the public agencies were working within very low thresholds of risk and trust – ‘risk’ in terms of the risk of money being misspent (although that depends on what is understood to be meant by misspent) and ‘trust’ in terms of trusting local people to know what is needed to improve their community. In respect of both of these critically important elements of the regeneration process, what is required more than anything else is a fundamental shift in terms of attitude and approach towards risk and trust.
With respect to which measures are needed to assist communities, SCA believes much greater emphasis needs to be given to investing in the community sector’s capacity to support itself. In particular much more could be done to support peer to peer learning and support. This already goes on in an informal, ‘under the radar’ fashion with a number of community anchor organisations around the country being called upon to offer ‘fire-fighting’ support in other communities where the need for such help has been identified. Most of this is informal and comes about as a result of the constant networking that runs throughout the community sector. This work however could be built upon and expanded with appropriate levels of investment.

In some cases, a very little investment can make an enormous difference. A small grant to allow a community to visit with another group that has already achieved something of interest, can have a massive impact. Previously, a Knowledge and Skills Exchange Fund which enabled this kind of activity across the sector had proved to be very popular and successful. It was simple idea – to remove the financial barrier to communities learning from each other. However it fell victim to the budget cuts. This year the Scottish Government has demonstrated that it has been listening to the sector and has invested significant resources into a Strengthening Communities Fund which invests directly into a number anchor organisation with aim of helping them to accelerate their business plans and become more sustainable. This is to be welcomed but it is important it does not become another piloted approach that is soon forgotten. Instead we would argue that this is the kind of investment that will be critical to the successful implementation of this Bill and should be expanded upon at the earliest opportunity.

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?

i) National outcomes.

Enshrining the national outcomes in legislation is a statement of the Government’s commitment to this way of setting out its strategic priorities and in showing a degree of accountability and transparency in reporting progress towards these priorities. It is therefore to be supported although the extent to which it is relevant to community empowerment is less clear.

ii) Community Planning

As with the section on National Outcomes, the relevance of community planning as it has been widely understood and practised since its inception in 2003, to community empowerment is not clear. Other than the duty to engage with communities which, as the Policy Memorandum, acknowledges is a distinct activity from community empowerment, it is not clear how putting CPPs on a statutory footing will improve the situation but there again, neither should it make it any worse.

iii) Participation requests

This is a positive measure that presents communities with a new opportunity to enter dialogue with a public service provider over an aspect of a public service and ultimately to affect real change and improved outcomes within a service area. However its value will depend largely on the internal culture of the public body and how that body receives and responds to this request. The absence of any appeal process leaves the balance of power
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with the public body which may ultimately discourage communities from exercising this right. It is however to be welcomed that there appears to be a presumption in favour of the community’s right to participate with a requirement on the part of the public body to explain its refusal.

There is some concern as to the applicability of this provision to the arms-length organisations that many Councils have set up to run services and administer assets. Clarification is sought on this.

iv) Community right to buy

There is much in this section that is to be welcomed. In particular the extension of the community to right to buy to all communities in Scotland and the changes to the procedures of the Land Reform Act to make it simpler and more widely accessible. There are some technical aspects of these proposed procedures that colleagues from the community land movement have identified which make sense and would improve the operation of this part of the Bill.

There are three areas of this section we would like to make specific comment on:

a) Late applications to register interest in land. In an ideal world, a community body would survey all local land and assets, agree amongst themselves which assets are of strategic long term importance to the community and then set about making a multiple set of applications, thereby registering interest in all these key assets. But the real world is not the ideal world. Communities are reactive not proactive by nature, and are galvanised into action usually only when something is threatened. But even if they had the inclination to think forward to the day that any of these strategic assets were to be put on the market, it is unlikely they would wish to assert their rights due to the potential for ill feeling that this might arouse from the potential seller who will perceive this as a constraint on their freedom to access the best market price possible. The additional hurdles associated with a late registration also appear to be too burdensome. We would therefore support the position of Community Land Scotland in respect of this aspect of the Bill.

b) Reregistration of interest. Given the procedural burden placed on communities to re-register their interest after five years has lapsed, and given the assumption that late applications are viewed generally as the exception rather than the rule (and therefore the assumption that multiple applications should be being made by community bodies) we would support the proposition that the re-registration should be required after ten years rather than five.

c) Absolute right to buy – abandoned and neglected land. We support the introduction of this provision in principle but would also support a number of concerns that members have raised in their more detailed submissions. Particularly around some inconsistencies with the procedures as laid down for this section as compared to the improved procedures for the pre-emptive Community Right to Buy. In particularly, we would agree with the comments from the Federation of City Farms and Community Gardens with regard to the suggestion that this section in the new Bill has followed the same wording as the Land Reform Act 2003 rather than the new improved wording for the pre-emptive right to buy. We would also support the view
that more clarity is needed to determine what is meant by abandoned and neglected land as the same description of land in two very different settings (city centre vs remote rural) can be interpreted very differently. Given that these provisions could result in an asset owner being deprived of his/her property against their wishes, it is very important that there is absolute clarity around the circumstances in which this will be permissible. A number of SCA members have raised specific and technical questions regarding this section. While these issues need to be addressed, it is also clear that all these responses are in support of the broad principle of having an absolute right to buy as a backstop provision.

v) Asset transfer requests

These provisions are to be welcomed and in particular the principle that it is not only the transfer of ownership of an asset that communities might be interested in but also the management or use of an asset. In each of these respects the Bill will strengthen the hand of communities. The presumption in favour of the community’s interest in a public asset and the placing of an onus on the public body to respond and give reasons if the transfer is not possible is also a step forward. It would be an even bigger step forward if there was a duty on public authorities to maintain and publish an asset register which communities could inspect and consider which, if any, public assets they were interested in.

vi) The Common Good

This section lacks real substance and it is unlikely to resolve the long running issues that have surrounded the common good. In particular it does not resolve the issue of what is meant by the common good. Requiring local authorities to publish a register will be of little value if there is no statutory definition of what should be included in it. There are other substantive questions such as whether the administration of common good funds should be invested with communities rather than local authorities and who should hold the title to common good assets that have not been resolved and should perhaps be the subject of wider debate.

vii) Allotments

This section has been broadly welcomed by SCA members with specialist knowledge of growing and the local food agenda. In particular the requirement on local authorities to produce a local food growing strategy will provide an important focus for this important aspect of building local resilience. In general it is to be welcomed that the previous and outdated allotment legislation which was no longer fit for purpose is to be replaced by this new legislation. However there are aspects of the old legislation that appear to have been lost. In particular the duty on local authorities to provide suitable land to meet demand from their existing stock or by leasing or purchasing new land does not appear in the new legislation and this will undermine the aim of providing better support for demand for allotments and community growing spaces. SAGS have raised a specific concern about the lack of precision in the Bill when referencing the size of an allotment and have proposed that the Bill should refer to a normal plot as being 250 square meters (which can then be subdivided into halves or quarters to suit local circumstances).

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?
SCA has no comment to make.