Local Government and Regeneration Committee

Community Empowerment (Scotland) Bill Call for evidence (June 2014)

Response from Community Learning and Development Managers Scotland

The aim of Community Learning and Development Managers Scotland (CLDMS) is to provide a national focus on professional issues and standards for Community Learning and Development (CLD) provision, provided directly or indirectly by local authorities. Managers from all of the 32 Scottish local authorities are involved. They provide, or plan with partners for, a wide range of services including community development and community capacity building, youth work and community-based adult learning.

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

The Bill is a step in the right direction. It has the potential to give communities more confidence that they will be heard, that they can help to set the agenda for change, and that they can acquire and use assets for their own benefit.

The proposals on new duties for community planning partnerships and partner organisations set out in the Bill do not directly facilitate community empowerment. It refers only to ‘consulting’ and ‘engaging’, and only in the context of identifying and prioritising outcomes. Empowerment is not simply a matter of having rights to participate. Although these rights are necessary, they are not sufficient. The enhanced duties for community planning will not lead to the empowerment of communities unless they are used to continue to engage with communities across a broad range of issues, to give community empowerment the priority it needs and to apply principles of social justice in doing so.

The definition of the community planning partners ‘at the table’ does not include community interests. Instead their participation appears to be at the invitation of the partners from other agencies, should they choose to do so. There is a danger that this may further centralise and cement power with local authorities and other public bodies.

The Bill fails to give Community Planning Partnerships any overall responsibility for supporting community empowerment in their areas, through co-ordinating the community
development work and community engagement processes of partners. Nor does it place obligations on individual partner agencies to support community empowerment, but only engagement in Community Planning itself.

The requirement that each CPP should consult and engage with communities is to be welcomed, but further guidance may be required to ensure that engagement is properly planned, resourced and integrated across partners. There is a need for a clear statement, agreed across each Partnership, of responsibilities for delivering community engagement, expressing a commitment to engagement that applies both jointly and severally to the partners demonstrating how the National Standards for Community Engagement will be applied, and providing accountability for engagement at the same level as the Key Performance Indicators for services. There must be flexibility and innovation in the approach to offering opportunities for dialogue with groups of people who might not otherwise take part – including young people.

Mechanisms need to be established to enable communities to be more involved in the planning and delivery of public services and the identification and delivery of local solutions to issues. The right to raise issues and obtain a response is an integral part of effective engagement and the proposed rights to make Participation Requests are a welcome contribution to ensuring this.

The provision could, rightly, potentially be used at many levels from e.g. influencing a city-wide service providing care to influencing provision in a neighbourhood facility. The scale and nature of the improvement processes involved would be significantly different and therefore the Bill must be worded to allow considerable flexibility in interpretation.

The definition of ‘outcome improvement processes’ should also be sufficiently broad as to allow communities to be enabled to make appropriate choices from a range of options, from engagement in decision making through to direct service delivery, participatory budgeting etc. It should be made clear that a right to request participation in ‘delivering outcomes’ can include a request to be involved in how services are designed, delivered and evaluated.

Ideally we should work for a system where participation in outcomes is offered without the need for formal requests. Arriving at this situation will require offering potential users of these provisions the opportunity to participate in learning and community development processes.

We also welcome the provisions that better enable communities to take more control over land and buildings.
But we have to question the extent to which all of these provisions, in isolation, will empower those communities that are excluded or marginalised, or who are unaware of the rights enshrined in the Bill. We need to be vigilant over which communities are actually able to exercise the new rights. Deprived or marginal communities remain so partly because they lack the power to make the case for the changes that they seek. For such communities the rights introduced in the Bill will not in themselves confer power or influence. For them empowerment is better understood as a long-term, purposeful process that builds cohesion and confidence and establishes a social and organisational infrastructure.

The next steps need to focus on ensuring that all communities are equipped and supported to take advantage of the rights and duties contained in the Bill, and we would encourage Scottish Ministers to consider actions to take this forward.

The values and skills that are put in to practice by Community Learning and Development workers in all sectors are vital to this process. These include not only community organising and capacity building work but also adult learning and youth work that equips people with the necessary knowledge and skills.

We welcome the fact that the Policy Memorandum reminds us that legislation alone cannot deliver community empowerment and that ‘appropriate support, guidance and a culture of nurturing community action’ are also vital. We do however consider that, as we outline in response to the questions 3 and 4, more could be done to make these links explicit in the legislation.

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

It is entirely appropriate that Community Planning becomes more outcome focused. We welcome the emphasis in the Policy Memorandum (37), which states that the local outcome improvement plans should provide: ‘a clear “plan for place”, focused on prevention and reducing inequalities’.

Community empowerment is a key plank of public service reform. Public service providers should fully engage communities in decisions about the design and delivery of services to achieve such outcomes.

Public sector bodies should be encouraged to develop Community Asset Transfer strategies and establish a set of ground rules against which prospective transfers are identified, supported, assessed and taken forward. The process should assist communities in making
appropriate choices from the range of options from full ownership to rights of management and use. Overall, the aim must for public authorities to set out a transparent framework that proactively enables and manages the transfer of assets to community organisations in order to bring about long term social, economic and environmental benefits to the community and to public services, and not merely in order to assist authorities to dispose of troublesome assets.

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?

Whilst the Policy Memorandum is clear that support is needed to enable communities to take advantage of new rights, it is less clear on how this should be provided and by whom, other than a vague reference to ‘the attitudes, skills and commitment of many people working in many different organisations’. This is not enough to address the acknowledged inconsistencies in support to communities or to promote best practice (paragraphs 19 and 20).

A clear link is needed to a strategy for meeting Community Learning and Development needs. Community Planning Partnerships need to demonstrate clearly how they have taken account of the 2012 Strategic Guidance for Community Learning and Development and have embedded planning for CLD in their processes.

The needs for community development support, community capacity building, and learning aimed at enabling people to take action on issues that concern them are among the needs are being assessed as local strategies that are being drawn up under the Community Learning and Development (Scotland) Regulations 2013. It would be helpful if the Bill could explicitly state that support to communities to exercise their rights under the Bill and to enable community empowerment are needs that must be taken into account in future strategies developed in terms of the Regulations.

We welcome the provision in section 9 (3) of the Bill which states that: ‘Each community planning partner must, in relation to a community planning partnership, contribute such funds, staff and other resources as the community planning partnership considers appropriate’ (a) with a view to improving, or contributing to an improvement in, the achievement of each local outcome referred to in section 5(2) (a), and (b) for the purpose of securing the participation of the community bodies mentioned in section 4(5)(a) in
community planning. This makes it clear that resources do need to be made available to support community involvement and participation in the outcome improvement process.

We would recommend that similar provisions should apply in the case of participation and asset transfer requests.

Consideration also needs to be given to the skills that may be needed to advise community-led bodies to raise concerns under the participation process, and potential conflicts of interest between community bodies and between communities and public bodies must be recognised. Potential conflicts will presumably need to be addressed through the CPP process. Guidance on how disputed or conflicting outcomes might be handled should be explicit. This is not to question the right to request participation – which should be fundamental – but an acknowledgement that the process may be fraught with difficulty

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 would like Community Planning Partnerships to be given an explicit overall responsibility for supporting community empowerment in their areas (Part 2, section 4), through co-ordinating the community development work and community engagement processes of partners, and an explicit duty on partners to make appropriate contributions (Part 2, section 9).

The 2013 Community Learning and Development Regulations require CLD partners to target resources to community need. The Bill should explicitly require partners in the recognising to take into account the need to support communities to make effective and equal use of its provisions when developing future Community Learning and Development strategies in terms of the Regulations (Part 2, section 9 or as appropriate).

The provisions in the provision in section 9 (3) for appropriate resourcing should be extended to apply in the case of participation and asset transfer requests.

We note that in response to the Committee’s questions about the effect of the Bill on Arms Length External Organisations the Scottish Government has stated that it is not its intention “to place duties in terms of participation requests on bodies which include members from outwith the public sector.” We are concerned that this is unduly restrictive, since many such bodies will include a minority of directors from other sectors. We would suggest the inclusion of all bodies covered by the Freedom of Information (Scotland) Act 2002 (Designation of Persons as Scottish Public Authorities) Order 2013, which designates as ‘a Scottish public authority in relation to any function of a public nature’ a body
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?

The implementation of the Bill’s proposals at a local level will require robust equality impact assessments to identify and overcome any barriers, identify and implement actions that will promote protected communities’ inclusion and participation in the processes of outcome improvement and asset management or ownership.

The experience of communities in areas of multiple deprivation may be restricted in relation to complex processes such as the transfer of assets and participating in outcome improvement processes. Properly resourced support will be crucial to ensure that such communities can access and experience the full benefits of the opportunities which the bill is creating. Individuals may also have general and specific learning needs in order to enable their effective participation, and such needs are most effectively met in a community learning context.

People with communication, physical and sensory issues will require additional resources to fully participate in these processes. Those tasked with the implementation of the programme must ensure that all delivery agencies are aware of their Duty under the Equality Act 2010 and that due regard is given in meeting the needs of all communities. This will require adequate resources to be made available to community groups to support equality of access e.g. communication supports, accessible buildings etc. and an awareness amongst public services of how to engage protected groups, and all disadvantaged groups, in developing an inclusive approach.

If community groups can acquire assets then they may be able to access funds for property/environmental improvements otherwise denied to local authorities. The converse also applies in that a community group may not have the resources to maintain an asset in an environmentally friendly fashion, which may leave the asset without sufficient environmental protection. Consequently, ongoing support to ensure the sustainability of any community group acquiring assets is vital.