Community Empowerment (Scotland) Bill
Local Government and Regeneration Committee Call for Evidence
Response from Voluntary Action Scotland
4th September 2014

About VAS

Voluntary Action Scotland (VAS) is the umbrella body for Scotland’s network of 32 Third Sector Interfaces (TSIs). We work with TSIs (unitary agencies and partnerships of Councils for Voluntary Services, Volunteer Centres and Social Enterprise Networks) around three keys themes; advocating on their behalf, supporting practice development and co-ordinating with them to help deliver stronger and more resilient communities. An important aspect of the role of VAS is to better inform the Scottish Parliament, Scottish Government and the statutory sector of the challenges and opportunities TSIs, the local third sector and local communities face. We aim to work with stakeholders to ensure that TSIs can play their role in supporting communities and delivering a consistent and valued impact across Scotland.

Introduction

VAS welcomes the opportunity to provide evidence on the Community Empowerment (Scotland) Bill. We see potential within this Bill and believe that if amended appropriately it can have a beneficial effect on the communities our members work with on a day to day basis. At the core of our response is the theme of co-production and co-design, this thread runs throughout our response and is central to empowering communities. We believe that the third sector and TSIs in particular have an important role to play in the successful implementation of this Bill.

As a network organisation we have consulted widely with our members when producing our response, although some points will vary between members. As such we found the most productive way to gather members views was by inviting comment on each section of the Bill, our response reflects this format.

Overall, we do not believe this Bill on its own will produce the empowered communities that we wish to see. However, if taken as part of a wider public service reform agenda and coupled with increased capacity building we believe it provides a useful stepping stone on the journey to real community empowerment. Crucial in achieving this is a culture change within public bodies that moves from a ‘top down model’ of service design and delivery to a ‘bottom-up’ community led model. We acknowledge that legislative provisions can only achieve so much in this regard, they can however provide the impetus to public bodies to move towards more collaborative ways of working.

We believe a culture within the public sector that works closely with local communities in service design and delivery will be hugely beneficial for the public bodies involved and crucially advantageous for the individuals within our society. It will lead to greater community buy-in and services which are more reflective of the true needs of the community.
The areas we have focussed on within the Bill are **Part 1 – National Outcomes, Part 2 – Community Planning, Part 3 – Participation Requests, and Part 5 – Asset Transfer Requests**

**Provisions within the Bill**

VAS has made a number of recommendations on provisions within the Bill. These have been broken down by section:

**Part 1 – National Outcomes**

VAS supports putting the setting of national outcomes into primary legislation and therefore supports the Scottish Government in this regard. However, we believe this section needs to be strengthened further to ensure that meaningful consultation is undertaken on the outcomes with a broad range of stakeholders, allowing for civic society and communities to voice their opinion and help set the outcomes. This will help empower communities rather than the process being driven and set by the centre. In order for a participatory approach to be successful the process for setting national outcomes needs to be simple and done in plain English that people in communities can relate to. Throughout this response we are calling for the National Standards for Community Engagement to be adopted in this regard to act as a code of conduct for engagement, albeit an updated list of standards that has co-production embedded within them.

We would also advocate for Parliamentary review of the outcomes at the point of them being reported on. This would allow for greater scrutiny and transparency and would help hold the Scottish Government and public bodies to account for achieving the outcomes. Finally, we consider the wording of ‘having regard for’ the outcomes when carrying out functions to be not assertive enough at present and would welcome stronger language being used.

**Part 2 – Community Planning**

Overall, VAS is seeking two key changes in the Government’s approach. Firstly we believe the outcomes for CPPs must include tackling inequalities in outcomes and secondly that legislation must ensure that community involvement is not confused with third sector involvement but that both are understood and specified.

VAS argued in our response to the consultation on the draft Bill that in order for community planning to be effective it must undergo significant reforms, making it a community led, collaborative, budget sharing, bottom-up process. We are therefore concerned about the limited progress that has been made in the current iteration of the legislation.

The reforms needed in community planning extend far beyond this Bill, however, we do believe it is necessary to make changes to the Bill at present in order to facilitate these longer term reforms. Therefore there are a number of additions and amendments that we believe would improve the Community Planning section of the Bill:

- At present Third Sector Interfaces are represented on all 32 CPPs in Scotland. This is a position strengthened by the ‘Agreement on Joint Working on Community Planning and
Resourcing\(^1\) released in September 2013 which states: “Making the most of the total resources available locally means ensuring that the Third Sector Interface is a full community planning partner and drawing on the huge commitment of all those, including volunteers, who work to improve communities.”. VAS is therefore keen to ensure legislation recognises the role of the third sector in community planning via the support of Third Sector Interfaces (TSIs), this role is not currently recognised or alluded to within the Bill. We acknowledge that ‘community bodies’ have been mentioned, and welcome this development, but are unclear as to what this refers to. Regardless of its definition we would advocate for clarity in guidance of the role of Third Sector Interfaces (TSI) in connecting and developing the third sector to community planning: bringing the voice and assets of the third sector to the table. This would ensure clarity, responsibility and accountability for the TSI.

The definition given in Section 4(8) does not seem to encompass the unique role TSIs play in our communities, connecting and enabling voices and assets from the third sector and bringing these to the community planning table. Whilst we do not wish to see duties placed upon Third Sector Interfaces, as they are not statutory bodies, we believe that in order to ensure they are a mandatory member of CPPs it is vital that there is a mechanism within the Bill for them to be written into guidance, perhaps by including reference to an advocate for the local third sector on the face of the Bill, this in turn would be described in guidance as the Third Sector Interface. If the Scottish Government fully believes in creating a culture change in the way resources are managed and services designed and delivered it needs to provide parity of esteem to TSIs as a voice for the local third sector. Community Planning should be about harnessing the totality of a localities assets and using them effectively to improve person centred, co-produced, outcomes, this is not possible without the inclusion and recognition of the third sector. We believe it is possible to write an advocate for the third sector into legislation whilst excluding them from certain duties placed upon statutory partners. VAS will suggest amendments to this effect.

- In order to secure the input from community bodies that is necessary to inform community planning there needs to be a strong community capacity building element, however, this does not appear to be present in the current iteration of the Bill. The duty on Community Planning Partners should extend to beyond merely securing input from community bodies to pro-actively developing the capacity for community bodies to exist and develop their knowledge in order to contribute to the community planning process. There needs to be an acknowledgement of the role the TSI plays in third sector engagement, involvement and capacity building. It would be possible to amend 8.1(b) to include a responsibility on statutory partners to provide adequate resourcing of community and third sector involvement. There should also be an onus on community planning partners to produce materials at CPP level in an accessible and timely manner to allow smaller organisations the opportunity to process and prepare their response in order for them to contribute fully to the CPP process. Further to this a mechanism needs to be introduced to allow for a right to appeal should a community bodies application to participate in a CPP be rejected.

- The current wording around involvement of community bodies is too ambiguous, stating that the CPP must ‘make all reasonable efforts to secure participation of such community bodies in community planning” and “consider which community bodies are likely to be able

to contribute to community planning”. The language still leans towards top-down involvement rather than bottom-up processes, involvement is on the terms of the statutory agencies, at the very least we would be advocating guidance on the Bill once enacted to define more clearly what constitutes ‘reasonable effort’. Important in this is that legislation should outline that the CPP must ensure demonstrable community involvement (beyond community bodies solely) in the development and scrutiny of CPP progress against outcomes. Third Sector involvement in this regard should be included independent of community bodies, third sector and community bodies are not the same thing and therefore the role of both, and needs to engage both, needs to be stipulated individually in relation to section 4.5 and section 5.3. The use of mechanisms such as participatory budgeting and citizen’s juries are two methods by which the CPP could demonstrate community involvement, VAS would encourage the committee and Scottish Government to consider how these approaches could be incorporated into guidance.

- The Bill does not make it clear whether invited community bodies will be considered as full CPP members or if they are just there on a consultative basis. If only on a consultative how do they guarantee that their views have an influence on the CPP?

- A key element of local outcome improvement plans (5), in our view, is demonstrating how that outcome will help tackle inequalities. Therefore, we would argue that the Bill should make it mandatory for local outcome improvement plans to outline how inequalities in an outcome will be tackled (5.2(b)). Further to this, we believe it would be beneficial for outcome improvement plans to be able to demonstrate the involvement of the community and third sector in that locality (5.3) rather than just outlining who to consult.

The VAS vision for community planning extends beyond what can be accomplished through this Bill and we acknowledge that there will be challenges in achieving this vision, particularly around a culture change in sharing resources and co-producing outcomes. We hope this Bill can be a step in the right direction and will continue to call for a much improved, community focused, version of community planning.

**Part 3 – Participation Requests**

VAS welcomes the inclusion of participation requests in the Bill and believes it is a move in the right direction in terms of communities having a say in the design and delivery of public services. We would emphasise the need for participation requests to be a simple process to ensure high levels of participation, key to this is the community capacity building element we proposed in the community planning to section that will help secure participation from a wide cross-section of society. The third sector has significant knowledge and expertise to bring to the table and can help significantly improve outcomes, however, the system must be simple enough that it does not overstretch their current capacity and resources as this may detract from their current role. The onus must be placed upon statutory bodies to actively pursue and resource the input from relevant community and third sector organisations in order to improve outcomes for all society. We welcome the removal of the need for community bodies to provide evidence of how their inclusion in an outcome improvement process would be beneficial, as was written into the draft Bill.
There are certain elements in this part that we believe could be strengthened further. Section 14 lists criteria describing a community-controlled body, we have concerns this is overly prescriptive and that a body having a written constitution would suffice in the majority of cases. Added to this is the lack of an appeal process should the public service authority reject the participation request. This leads to a lack of transparency and accountability and goes against the general principles of the Bill. We would also like to see a duty on public service authorities to have to publicise the existence of the participation request mechanism and encourage and support community bodies to become actively engaged.

Consideration must be given to the role of ‘arm’s length organisations’ (ALEOs) and their potential role in participation requests and throughout the Bill. We are currently unclear of their potential role and are keen to ensure any role they do have is not to the detriment of the communities and local third sectors potential impact.

Again, this section would benefit from the adoption of an updated set of National Standards for Community Engagement in primary legislation. This is very much in line with the spirit of the Bill.

**Part 5 – Asset Transfer Requests**

A number of public bodies are already involved in schemes which work towards transferring assets from the public body to community bodies. This Bill looks to extend this further, placing this approach into legislation and opening to the whole of Scotland. It gives the initiative to communities to identify property they are interested in and places a duty to agree to the request unless they can show reasonable grounds for refusal.

VAS welcomes this approach as it extends rights and potentially releases much needed assets to communities. The principles are therefore sound but could still be refined further. VAS believes an asset register should be collated by statutory bodies and made readily available to the public, creating a transparent asset transfer system, along with a duty to publicise when a transfer request has been made. This should be coupled with a transparent approach to the current state of assets and whether they are in a suitable condition to be transferred to community organisations. Clarification also needs to be given over the process whereby more than one community body initiates an asset transfer request.

Finally, one area has already reported the transfer of local authority assets to an arm’s length organisation on a significant scale. We have concerns that in a situation where a public body wishes to protect property and withhold it from possible asset transfer that they may also be inclined to place these assets in an arm’s length organisation or trust and therefore exclude it from this piece of legislation. This is clearly not in the spirit of the Bill and does nothing to empower communities, therefore we are calling for clarification on the position of assets that were previously controlled by a public body but have been voluntarily transferred to an arm’s length organisation.