A RESPONSE FROM THE SCOTTISH FEDERATION OF HOUSING ASSOCIATIONS

IN RESPONSE TO THE LOCAL GOVERNMENT AND REGENERATION COMMITTEE’S CALL FOR EVIDENCE ON THE SCOTTISH GOVERNMENT’S COMMUNITY EMPOWERMENT (SCOTLAND) BILL 2014

September 2014
1 Introduction

1.1 As the representative body for housing associations and housing co-operatives in Scotland, the Scottish Federation of Housing Associations (SFHA) welcomes the opportunity to comment upon the Scottish Government’s Community Empowerment (Scotland) Bill.

1.2 To provide context, housing associations and housing co-operatives in Scotland own and manage approximately 46% of the country’s affordable social housing stock. This represents 274,996 homes across Scotland. This is concentrated in some of the poorest communities in our country.

1.3 For 35 years, the housing association sector has been at the forefront of developing, building and managing high quality homes in Scotland. The sector has shown itself able and willing to contribute to the direction of national housing policy. It has delivered effectively a range of housing solutions at a local and national level. As the Scottish Government is aware, housing associations and housing co-operatives are leaders in community involvement and empowerment across Scotland. Their role as Community Anchors is to be recognised and celebrated, in their long history of housing provision and community involvement in Scotland.

1.4 This response has been developed following consultation with our members across Scotland.

2 Committee’s Call for Evidence

2.1 The SFHA has responded to both of the Scottish Government’s consultations on the proposed content of the Bill. The issues we have raised previously remain valid now that the Bill has been introduced. The work of housing associations as community anchors in developing sustainable communities remains crucial to regenerating local areas, and housing associations continue to be key proponents of regeneration in many areas across Scotland. Community planning, if administered appropriately, is also an important mechanism in ensuring the community’s voice is heard.

2.2 The Committee has invited specific responses on the following questions:

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

The main aim of the first consultation paper on the proposed Bill was very strongly in favour of strengthening communities. It is the SFHA’s view that this has been lost or at least diluted in a broader sense, along with the lack of an express link to all the various strands of regeneration. The published Bill places a greater emphasis on: community ownership/right to buy; allotments; statutory authorities and large public bodies (both national and regional). If statements such as the ‘…presumption of agreement to participation requests’ (s19 (5)) was afforded greater prominence in the Bill’s structure, it would be symbolic of a commitment to empowering communities.
Whilst issues such as community right to buy are important in themselves, these areas will not be of relevance or of interest to all local areas. It is our view that communities are looking to this Bill to be a vehicle by which they could empower themselves to improve their working relationship with public authorities and other partners so as to have a more equal footing. They are also looking for help in growing and developing their skills and experiences as community groups. The Bill as currently drafted does not meet this need.

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

   Public sector organisations will now have other partners to share some of the onerous tasks such as managing Community Planning Partnerships: conversely, they may feel that some of their control may be lost and public bodies may find this a disadvantage. There may, however, be inconsistencies between local authorities in how ‘power’ is shared, and how they are able and/or willing to deal with the potential for increased community involvement. The authorities will also have to take on new duties such as establishing, managing and maintaining the Common Good Register, and managing participation requests.

   We welcome that the CPP in Glasgow has now incorporated housing association representatives to sit on its various committees, and it would be good to see this replicated around the country. This has the potential to benefit community groups by the mere fact of their recognition and inclusion. The sharing of roles in some instances will mean that public bodies may have to look differently on how they work and engage with wider groups and this will be no bad thing.

   A main disadvantage to public sector organisations is the missed opportunity to effectively empower and promote community bodies to help shape and deliver the future of those communities.

3. **Do you consider communities across Scotland have the capabilities to take advantage of the provisions of the Bill? If not, what requires to be done to the Bill, or to assist communities, to ensure this happens?**

   It is the SFHA’s view that, under the current provisions, not all communities will have the capability to use the provisions of the Bill to their full potential. This is partly due to the lack of subsidiary/parallel funding and practical help to assist community capacity building. It is also due to the absence of practical help (perhaps on a peer-to-peer basis) to encourage and support communities to make the Bill work for them. A grass-roots approach has to be taken to ensure communities are at a good starting-point in order for them to progress, both in using the provisions of the Bill and in developing within their own areas.
4. Are you content with the specific provisions on the Bill, if not what changes would you like to see, to which part of the Bill and why?

The Bill must overtly mention housing associations and co-operatives as community bodies. Housing associations and co-operatives fulfil the requirements of community controlled and led bodies perfectly. We would urge Scottish Ministers to address this omission immediately. Also, as we have stated above, there is too much emphasis on community right to buy and allotments, and not enough on how communities are to be assisted to develop and grow and enter into meaningful partnerships with public bodies.

We remain concerned about the continued lack of budgetary powers being conferred on local communities, which would truly allow them to be empowered.

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?

Assessment of Equal Rights: It is useful to see reference made to the need in many cases for an Equality Impact Assessment (EQIA) to be carried out. It may be necessary to provide information to some bodies on best practice to ensure a common method of assessment is adopted by all.

With reference to compatibility with Human Rights, we would ask if the Scottish Government has satisfied itself, through specialist legal advice, that the Bill provisions are compatible with the European Convention on Human Rights?

SFHA notes with interest this comment from the Commission on Strengthening Local Democracy: “…as a country we have simply become used to a culture that doesn’t empower people locally. We have an ethos where…for something to be delivered efficiently it has to be centralised, for national outcomes to be achieved, national agencies have to be created and where local discretion is available, this is often seen as a postcode lottery rather than legitimate local choice and local democratic accountability. …only a very major initiative can alter the direction of travel.”¹ This Bill does not address the issues of empowerment, of helping communities to become ready to participate, and allowing for real local involvement in its basest and broadest form.

Impacts on Island Communities: In some ways, positive discrimination may be a useful tool when applying the Bill provisions to island communities. The Oxford Dictionaries define positive discrimination as “… (In the context of the allocation of resources or employment) the practice or policy of favouring individuals belonging to groups which suffer discrimination”. In responses to previous consultations on the Bill, some responses advised that the islands suffer adversely from a shortage of land for allotments in crofting areas. It may be that some stronger measure is needed than “… (suggesting)… (that) local authorities …work with other landowners and public service

providers to discuss the possibility of allotment provision on their land.”

As the Commission on Strengthening Local Democracy said, “What is right for the islands is unlikely to be right for the cities. What is right for large rural authorities is unlikely to be what is right for our towns.”

Another issue that is of concern to island communities in particular is absentee landowners, where communities may have difficulty in tracking someone to ask if they could purchase the land under the Community Right to Buy.

**Sustainable Development:** whilst recognising that the Bill provisions *per se* do not have any environmental impact, individual proposals may do. It is important that those bringing the proposals do undertake an Environmental Assessment if it is appropriate for them to do so.

**Additional Comments**

There are certain aspects of the Bill that have afforded some further questions, and which have potential resource implications (such as Part 2, (s) 5 para (1). Besides a possible resource implication, information on firm timescales for review of the local outcomes improvement plans would have been welcome (Part 2 (s) 6 para 2 (a) ).

There is a lack of information on any further appeals processes available to communities where a participation request may have been rejected by the local authority in Part 3, and it would be useful for this omission to be addressed in a formal sense.

There seems to be a ‘push’ towards enforcement, rather than encouragement of, partnership working (Part 2, (s) 4 para 10 (1)). It is better to encourage such relationships in order that they work to best effect, not try to force a relationship.

If regeneration is stated as one of the areas needing promotion or improvement, why is social housing (and housing associations in particular) omitted from this Bill as main agents of regeneration? (Part 5 (s) 55 para 5 (c) ). There needs to be a link back to regeneration in its broadest sense to allow this Bill to be as rounded as possible. Both the SFHA and Glasgow and West of Scotland Forum of Housing Associations (GWSF) agree that the opportunity that this Bill afforded in terms of community empowerment may not be as obvious now as once was hoped.

We wish to see housing associations and housing co-operatives recognised in the Bill as appropriate community bodies, as mentioned in our response to question 4.

3. **Conclusion**

SFHA is disappointed that the Bill’s focus has been diluted since the first consultation paper and that an overt linkage to regeneration in all its forms is absent.

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3.1 We would urge the Scottish Government to address issues of local involvement and empowerment through another route if these issues are not to be at the heart of this Bill.

SFHA
September 2014