Inclusion Scotland response to Local Government and Regeneration Committee’s Call for Evidence on the Community Empowerment (Scotland) Bill

1. Introduction

1.1. Inclusion Scotland (IS) is a network of disabled peoples’ organisations and individual disabled people; and part of the disabled people’s Independent Living Movement. Our main aim is to draw attention to the physical, social, economic, cultural and attitudinal barriers that affect disabled people’s everyday lives and to encourage a wider understanding of those.

1.2. This response has been prepared by Inclusion Scotland using evidence we have gathered from our members, which include Disabled Peoples Organisations (DPOs) and individual disabled people. In particular Glasgow Disability Alliance, our largest member organisation with over 2,000 disabled people affiliated to it, carried out a large scale consultation exercise on the Bill proposals and the views they gathered have inform this response. Our submission also reflects our commitment to the social model of disability, and specifically our commitment to Independent Living.

1.3. Disabled people continue to ask for, campaign for, work for and fight for a right to have a say in decisions which affect them. This includes both decision which affect them individually and those which have an impact on them as a community.

1.4. Disabled people share, with others in communities across Scotland, the ability and the potential ability to be community participants at all levels including as leaders, volunteers, commentators and service providers, and to contribute equally to the advancement of community interests for all. However, many disabled people are hindered from fulfilling such roles and being fully participative citizens, or where they are proactive, their influence is unheeded.

1.5. Disabled people have the least ability to speak up for themselves as their participation in community life is hamstrung by the chronic underfunding of local disabled peoples organisations; disabled people’s social isolation from the communities that they live in and their declining income. A recent Inclusion Scotland survey of 138 disabled people found that a third felt that they rarely have adequate opportunities to be included in their community. Cuts to disability benefits & care services and rising living costs, including community care charges, are all reducing disabled people’s ability to meet the access costs of participation.

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1. Inclusion Scotland June 2014 ‘Summary of responses to Inclusion Scotland’s UN CRPD survey’, available for download here: http://www.inclusionscotland.org/
2. Community Empowerment Bill – general comments

2.1. Inclusion Scotland are concerned that the Bill as currently drafted is a missed opportunity to embed the National Standards for Community Engagement\(^2\), co-production, and the lived experience of disabled people into the design and delivery of public services. There is a real danger that, whilst some communities may be empowered by the proposals in the draft bill, marginalised communities, such as disabled people, may become even more disempowered.

2.2. The consultation for the Bill itself excluded disabled people as a community. No versions of the legislative proposals were produced in accessible formats such as Easy Read, BSL & Braille and no events for disabled people or their organisations were arranged.

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

3.1. We share the concerns of the Scottish Community Development Centre: that in absence of genuine and meaningful community capacity building and engagement, the opportunities created by the Bill will not be enjoyed equitably. Communities which are the most marginalised, fractured and impoverished are likely to benefit least whilst communities already rich in resources and human assets are likely to benefit most through their acquisition of new assets.

3.2. Recommendation: Fundamental to the success or otherwise of the draft Community Empowerment Bill is how “community” will be defined. Community should not be defined by a narrow definition based on location and residence. Disabled people are often excluded from traditional communities, or have specific needs and interests that are best addressed by their own community.

3.3. The Bill’s focus on Community Planning is likely to lead to a focus on geographic communities rather than communities of interest – which by their very nature are not necessarily sited or organised in particular localities.

3.4. Geographic communities may unfortunately not necessarily be mindful of equalities and human rights responsibilities when exercising rights that are conferred by this Bill. Research compiled for the EHRC\(^3\) by Heriot Watt University suggests that where equalities groups live in the poorest areas, they do not always benefit from place based policies.

3.5. This is because the reasons for disabled people’s poverty may differ from those around them – for example a disabled people may need specific support with transport to enable them to work. However if disabled people’s specific problems are not addressed, but those identified by the majority community are, then their disadvantage may actually intensify rather than be reduced. The report concluded that “place based policies will not achieve their aims unless they embrace issues of equality, and that a strand based approach could therefore improve outcomes more equally”.


\(^3\) ‘Hard-to-Reach’ or ‘Easy-to-Ignore’?, Mathews, Netto et al, Institute for Housing, Urban & Real Estate Research, School of the Built Environment, Heriot-Watt University for EHRC, September 2012
3.6. There is also a risk that public assets and services currently covered by public sector equality duties may no longer be so covered if passed to local community ownership or control. It is therefore essential that the rights of disabled people and other equalities groups are not unduly affected, and that opportunities to promote equality are not ignored in favour of the majority voice in the community.

4. 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?

4.1. No. Disadvantaged and marginalised communities, including disabled people, are less likely to be able to take advantage of the opportunities afforded by the community right to buy, and this is likely to exacerbate inequalities between them and more well-resourced communities.

4.2. The Bill does not make any specific mention of Equalities considerations. Nor do the proposals offer any level of support to marginalised communities which would enable them to engage with the Community Planning process. In addition marginalised, fractured and impoverished communities will, by definition, have fewer assets, or assets of lower quality, in their areas, which will in turn be harder and more expensive to manage and maintain.

4.3. Recommendation: We would prefer an approach that embeds the principles of the National Standard for Community Engagement and co-production in all aspects of the planning and delivery of public services, including monitoring and review.

4.4. The Bill as proposed puts the onus on the community to request a right to participate and to prove they have legitimacy to do so. The following issues need to be addressed in terms of the request to participate—

(i) The processes set out for requesting the right to participate are overly complex and not accessible to large numbers of disabled people and other disadvantaged communities.

(ii) The process is legalistic and will tend, by its nature, to favour the loudest and most powerful voices, potentially diverting attention away from the key issues and interests of marginalised communities.

(iii) The Bill proposals require community groups to demonstrate what part they will play in delivering change and to provide details of their knowledge, expertise and experience. This will tend to ensure that professional-led, funded organisations will gain recognition whilst further marginalising those communities whose organisations are less developed and well-funded.

(iv) The proposals completely fail to recognise the intrinsic value of community participation and the assets, skills, knowledge and lived experience that communities can bring to the table.

4.5 Inclusion Scotland believes that the requirement placed on community groups to request participation disempowers rather than empowers communities, as it leaves the power with the public bodies, which should instead have a duty to effectively engage with communities.
4.6 Another specific concern that we have is the lack of a provision for review or appeal where a public body refuses a participation request. Such a right to review and appeal should therefore be included on the face of the Bill and an independent body empowered to carry out this duty.

4.7 Inclusion Scotland further believes that the principles of co-production should be enshrined in the design and delivery of public services. Co-production describes a relationship between service provider and service user that draws on the knowledge, ability and resources of both to develop solutions. Co-production changes the balance of power between professional and service user and is thus a genuinely empowering process.

4.8 Community empowerment will not be possible unless there is support to develop the skills, abilities and confidence of people and community groups to take effective action and leading roles in the development of communities. Without this capacity building, the balance of power will always lie with the professional public servant rather than the communities that they supposedly serve. Recommendation: That a duty is placed on Community Planning Partnerships to dedicate part of their budgets to developing the capacity of disadvantaged and marginalised communities to participate.

4.9 Disabled Peoples Organisations (DPOs) do a great deal to build the confidence and capacity of disabled people. Empowering disabled people enables them to contribute to the civic and economic life of their community. It also makes genuine coproduction possible, for example improving services through partnerships between planners, providers and service users. However, DPOs have not been immune to spending cuts, and few have the resources and capacity needed to meet the increasing challenges of welfare reform, health & social care integration and community empowerment. Therefore the need to develop the capacity of DPOs must be recognised.

5 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?

5.1 Whilst we welcome the proposals to place new duties on community planning partnerships to engage with communities, Inclusion Scotland remains concerned that community planning is something that is done to communities rather than with communities.

5.2 Much we have said above applies as much to community planning as it does to community participation. Community bodies, made up of community members, are the most significant stakeholders in services. Whilst service providers are guaranteed places on Community Planning Partnerships the communities that they supposedly serve have to prove their worth before being admitted. That does not strike us as very “empowering”.

5.3 The Bill should instead make explicit the right of communities to be involved in and contribute to the work of Community Planning Partnerships. The Bill should also describe the role of communities in Community Planning structures.

5.4 As stated above we also wish to see the incorporation of the principle of co-production on the face of the legislation as this would ensure genuine empowerment of marginalised communities. We would also like to see clearer links made between the Community Planning process and the current and ongoing integration of Health and Social Care.

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5.5 Inclusion Scotland would also welcome the embedding of the national performance framework, provided there is genuine engagement and coproduction of the national outcomes and performance indicators. In particular, we believe that there should be a proper match between policies and budgets and the national outcomes, which is lacking at present.

5.6 This would include ensuring that human rights, as well as equality, is integral to the budget process for national and local government, and involving disabled people in the budget planning process as recommended by the Equal Opportunities Committee of the Scottish Parliament in its report on the Scrutiny of the Draft Scottish Government Budget 2014/15.

6 What are your views on the assessment of equal rights

6.1 It is essential that equalities and human rights are protected in the transfer of public assets, to ensure that these assets remain available to all sections of the community. There must also be opportunities for communities of interest, such as disabled people, to take over assets to protect or enhance services for disabled people.

6.2 Although local discretion and decision making can be valuable in ensuring public services are responsive to local needs, disabled people also need assurance that their needs and services will be assessed to consistent national standards that promote equality and human rights.

6.3 Inclusion Scotland would like to see a much more robust Equalities Impact Assessment carried out which properly addresses the potential dangers that marginalised communities, such as disabled people, may face if recognition of community groups is granted to professional or already well-resourced groups at the expense of groups representing disadvantaged or equalities groups.

7 Conclusion

7.1.1 In conclusion, whilst there is much to be welcomed in the Community Empowerment Bill, we currently view it as a missed opportunity to truly empower disabled people (and other marginalised and disadvantaged communities) to participate in Community Planning.

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http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/70876.aspx