Written submission from COSLA

Evidence to the Finance Committee

Land Reform (Scotland) Bill

Introduction

COSLA welcomes the opportunity to provide written evidence to the Finance Committee on the Financial Memorandum attached to the Land Reform (Scotland) Bill. COSLA's submission does not follow specifically the questionnaire attached to the Committee's call for evidence, but instead focuses on a number of key concerns we wish to draw to the Committee's attention. In presenting these concerns the Committee will hopefully be satisfied that COSLA has also sought to cover the areas of interest set out in the call for evidence.

Key Points;

- We agree that, given the information contained within the Financial Memorandum, the Land Reform (Scotland) Bill will have a limited impact on local authorities.

- We would welcome greater detail around key definitions in order to make a more detailed assessment of the financial impact of the Bill.

- Further guidance is required in respect of what is considered ‘reasonable enquiries’ into land ownership by local authorities.

- COSLA remains concerned at the potential for an amendment to the Bill to include a duty for all public authorities to register all their land within 5 years.

Detailed Comments

We have reviewed the Financial Memorandum for the Land Reform (Scotland) Bill in consultation with local authority Directors of Finance. We agree that, given the information contained in the Financial Memorandum, the Land Reform (Scotland) Bill will have a limited financial impact on local government.

The Financial Memorandum states that some small administrative costs will arise for local authorities in the following areas;

- Engaging with communities in decisions relating to land.

- Right to buy land to further sustainable development.

- Entry in Valuation roll of shootings and deer forests

- Access & Core paths

COSLA agrees that there will be administrative costs for local authorities in these areas, however, more detail is required in order for us to more thoroughly assess the
financial implications of the proposals as these are currently unquantifiable. In particular on the following;

*Information requests on those with a controlling interest in land*

For a person to obtain information on those with a controlling interest in land, rather than legal ownership, they need to be ‘affected’ by that land. We would welcome clarity on what constitutes ‘affected’.

*Engaging with Communities in decisions relating to land*

We note that there is to be guidance issued on engaging communities in decisions relating to land which may affect communities. We welcome this guidance and would welcome a definition of community within this.

*Sustainable Right to Buy*

The sustainable Right to Buy applies to all land in Scotland (with limited exception) and not just to rural land. The proposal is that this right can be exercised even if the landowner does not want to sell. This will include local authority land. While we welcome the attempt to set out conditions for when it would be considered that sustainable development will be met, we are concerned that these are vague and would welcome greater clarity in this area.

*Access and Core Paths*

There are a number of provisions in the Bill pertaining to Access and Core Paths which place a responsibility on local authorities to make reasonable enquiries into land ownership when ownership information is not readily available. As the committee will be aware, enquiries into land ownership can be expensive and time consuming. We would welcome clarification from Scottish Government on what is considered to be a reasonable enquiry when guidance is issued, taking cognisance of the potential costs linked to this area. Further to this, staff dealing with core paths may also have additional work as a result of changes proposed in the Land Reform Bill. This is not taken account of in the Financial Memorandum.

In addition to the areas highlighted above, there are two other issues that we wish to bring to the committee’s attention.

*Guidance and Definitions*

In general, when considering guidance and definitions, we would urge Scottish Government to ensure that this is done in conjunction with the Community Empowerment (Scotland) Act 2015, as there is a clear overlap in policy intent between that and the Land Reform (Scotland) Bill. This would help achieve consistency of approach and application.

*Land Registration*

We would like to bring our concerns around land registration to the attention of the Finance Committee. While we are aware that the Land Reform (Scotland) Bill does not contain provisions relating to land registration, we note the Ministerial
Commitment to the completion of the Land Register within 10 years, and the registration of all public land within 5 years. Despite having written to the Minister for Environment and Climate Change, we remain concerned that the Bill may face amendments which seek to have the Ministerial Commitment become a duty on all public authorities.

A report by SOLACE has highlighted the potential costs involved in requiring local authorities to register all their land and buildings within the next five years. Initial investigation by the Improvement service estimates that the total cost to Scottish local government is likely to exceed £150m. We recognise that this figure is based on extrapolation of one council who requires to register approximately 5,000 titles and the current fees charged by Registers of Scotland. However, COSLA is aware that figures will vary across authorities depending on size, geography and whether its records are already digitised.

Costs to councils arise in two distinct areas. Firstly, the cost of preparation which includes locating the deeds, accessing market values and providing plans for each title to be registered. The timescale of 5 years is particularly ambitious and presents local authorities with added challenge and cost of recruiting additional legal, technical and archival staff. This forms the majority of the costs to local authorities. Secondly is the cost of registration itself. The fees payable to the Registers of Scotland would be a significant part of the cost, particularly if charged according to the value of the property as is currently the case. While we are grateful that Scottish Ministers have reduced fees for registration of land by local authorities from 30th June 2015 until 'at least' 2017, this goes little way to tackling the enormous cost to local authorities.

COSLA is concerned that insufficient account has been taken of resources available to local authorities, both in terms of finances available to be spent in this areas and staff to carry out the work. A number of Councils have indicated to COSLA that the work required could not be met within existing staff structures and would require additional staffing. While we do not dispute the benefits that land registration and a completed land register would bring to Scotland, given the current economic climate and the pressures facing local government this is potentially a very expensive exercise.

COSLA
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