



OFFICIAL REPORT
AITHISG OIFIGEIL

Local Government and Communities Committee

Wednesday 16 September 2020

Session 5



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LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

22nd Meeting 2020, Session 5

CONVENER

*James Dornan (Glasgow Cathcart) (SNP)

DEPUTY CONVENER

*Sarah Boyack (Lothian) (Lab)

COMMITTEE MEMBERS

*Keith Brown (Clackmannanshire and Dunblane) (SNP)

*Gail Ross (Caithness, Sutherland and Ross) (SNP)

*Alexander Stewart (Mid Scotland and Fife) (Con)

*Annie Wells (Glasgow) (Con)

*Andy Wightman (Lothian) (Green)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Angus Hardie (Scottish Community Alliance)

Dr Calum MacLeod (Community Land Scotland)

Colette McGarva (Community Development Alliance Scotland)

Douglas Westwater (Community Enterprise)

CLERK TO THE COMMITTEE

Peter McGrath

LOCATION

The James Clerk Maxwell Room (CR4)

Scottish Parliament

Local Government and Communities Committee

Wednesday 16 September 2020

[The Convener opened the meeting at 10:00]

Decision on Taking Business in Private

The Convener (James Dornan): Good morning, and welcome, everyone, to the 22nd meeting in 2020 of the Local Government and Communities Committee. Some of us are attending the meeting in person in committee room 4 of the Parliament, and some are attending remotely by videoconference.

I remind everyone that social distancing measures are in place in this room and across the Parliament. Please take care to observe the measures at all times this morning, including during breaks and when the meeting ends.

I do not need to remind members not to touch microphones or consoles during the meeting, as they will be operated remotely by broadcasting staff. Please ensure that all mobile phones are on silent.

Under agenda item 1, we will consider whether to take agenda items 3 and 4 in private. Item 3 is consideration of evidence on the Community Empowerment (Scotland) Act 2015, and item 4 is consideration of witnesses for future evidence sessions on the Scottish Government budget 2021-22. As some members are participating remotely, rather than asking whether everyone agrees, I will instead ask whether anyone objects. If there is silence, I will assume that members are content.

As no one has objected, we agree to take items 3 and 4 in private.

Community Empowerment (Scotland) Act 2015 (Parts 3 and 5) (Post-legislative Scrutiny)

10:01

The Convener: Under agenda item 2, the committee will take evidence on the Community Empowerment (Scotland) Act 2015. This is the second evidence session of the committee's post-legislative scrutiny of parts 3 and 5 of the act, on participation requests and asset transfers. We will hear from a range of organisations that represent and work with communities across Scotland.

I welcome the witnesses, all of whom are attending remotely. Angus Hardie is the director of the Scottish Community Alliance; Dr Calum MacLeod is the policy director for Community Land Scotland; Colette McGarva is co-ordinator for Community Development Alliance Scotland; and Douglas Westwater is the chief executive of Community Enterprise. I am grateful to you for taking the time to speak to us today.

We will move to questions in a moment, after I give some technical information. For the benefit of broadcasting staff, I will call each member in turn, in a pre-arranged order, to ask their questions for a block of up to nine minutes. If members would like to hear from a specific witness, they should indicate clearly to whom they are addressing their question. Should a witness wish to respond to a question that has been asked by a committee member, please indicate that clearly by raising your hand while in shot. I ask everyone to give broadcasting staff a second to operate your microphones before you speak.

I will kick off the questions. What do the terms "community empowerment" and "community wellbeing" mean to the organisations that you represent?

Dr Calum MacLeod (Community Land Scotland): Thank you for the opportunity to speak in this session. Community Land Scotland's members include almost 100 prospective and actual urban and rural landowners. To them, community empowerment means having the agency and opportunity to engage with and determine their own places; making their own places and communities sustainable; having a leading role in shaping decision-making processes; and working very much in partnership with the people in their communities and, crucially, with other stakeholders including, for the purposes of this discussion, public agencies. Having those individuals at the forefront of decision-making structures and being able to use land and built

assets to improve sustainability, resilience and social cohesion is fundamentally important.

It is critical that wellbeing and wealth building includes using and harnessing economic, environmental, social and cultural dimensions. From our perspective, empowerment and wellbeing in that context should be tied to land reform and changes to land ownership and the use of land, including buildings, in the public interest for the common good. That is fundamental to our members' framing and perception of those concepts.

Angus Hardie (Scottish Community Alliance): I agree with everything that Calum MacLeod has said. In essence, it is about communities having more control over the decisions that shape their future.

Albeit that I know that not everybody agrees with me, I think that community empowerment is a zero-sum game, in the sense that, if communities are going to have more power and control over those key decisions, someone, somewhere, is going to have less control and less power.

When it comes to the 2015 act, I think that the reason why a number of public bodies and local councils were pretty relaxed about the bill as it worked its way through the Parliament was that it was not perceived as threatening the status quo—it was not perceived as a transfer of power. Perhaps that has been a bit of an issue, since then.

Colette McGarva (Community Development Alliance Scotland): Community empowerment has always been one of the key aims and objectives of the Community Development Alliance. It helps to strengthen our nation, so it is for the greater good. We would always support the empowerment agenda.

That is about helping communities to feel more confident and resilient, and to build their skills, as well as about the redistribution of power and wealth. For example, participatory budgeting has, in our view, been a good method of supporting the redistribution of wealth, because the public has had its say, to a certain extent, on how budgets are spent. For us, it is always about involving communities in the decision-making processes in a meaningful way, at all levels.

Douglas Westwater (Community Enterprise): I could not agree more with my colleagues, in a theoretical way, but perhaps I come from a different perspective.

Your question was about wellbeing. We work with dozens of organisations, particularly on asset transfer. In a very practical way, wellbeing has happened and impacted on communities simply

because people have buildings. Things have to have physical places in which to happen.

I am sure that, at some point, we will need to reflect on Covid. A huge tsunami of community support has been well recognised across Scotland. Such support has to happen in places: food has to be stored somewhere; volunteers have to meet somewhere. Before and after Covid, we have seen massive wellbeing impacts. Buildings—assets—have been the stimulus for that, because they are anchors in a community. That is incredibly empowering.

Often, assets have been closed or underused, and communities that take them forward bring passion and the ability to use them. On a very practical level, that has a direct impact on health and wellbeing.

The Convener: How can those concepts be measured? Has there been any noticeable change since the bill was enacted in 2015?

Colette McGarva: As we said in our submission, the more that community planning partners can evidence how they are involving communities in decision making, the better it is for our nation. Therefore, we advocate that we look to Audit Scotland to see to what extent public bodies are being scrutinised. We also advocate that involving the public in decision-making processes from the outset is the best approach and always has been.

The Convener: How do you measure the impact that the community planning partnerships, for example, are having? How do you measure that those concepts are successful?

Colette McGarva: We need to highlight and showcase examples of good practice. For example, East Ayrshire Council has always been viewed as an example of good practice in CPPs because, traditionally, it has tried to involve the public in decision-making processes; community-led action plans and the implementation of those is perhaps a good example of that. We need to showcase more all the good practice in Scotland and beyond.

Dr MacLeod: The measurement issue is critical, but there are different elements to measure. We need to bear it in mind that there is both measurement of the processes that lead to empowerment, and we have seen—and I am sure that we will touch on this later—that the reporting mechanisms from public authorities on the community asset transfer process is very patchy. In fact, during the two-year period there appears to be a downward trend in reporting on that.

However, impact, outputs, outcomes and the difference that is being made also need to be measured, and there is a need for a more

systematic approach to that than there is currently. I suggest that one obvious place to start that is by measuring what has been supported through the community empowerment agenda, specifically through the public-asset transfer process. Considering the work of the Scottish land fund as an example, 40 per cent of its caseload relates to public-asset transfer. That has been critically important to the throughput, and we can measure what difference it is making in practice by looking at the quality and quantity of case studies that can be seen on what community organisations are predominantly doing to use that process and the empowerment mechanisms to create the spaces that they need to develop things, support their communities in different ways and plug into the wellbeing agenda that we talked about previously. Having the robustness to do that has been important.

Douglas Westwater mentioned the pandemic and Covid, and having anchor organisations has been very important in helping to shape and build resilience. That is reflected—not least in the Glasgow Caledonian University report that the committee has been considering—in those anchor organisations being there to help shape and direct a lot of activity in relation to the outcomes and outputs in practice.

The Convener: In the interests of democracy I will not abuse my position as convener, so it is time for me to pass over to my deputy convener. I am sure that the issues of participation requests and asset transfers will come up throughout the questioning and you will get an opportunity to discuss them.

Sarah Boyack (Lothian) (Lab): Colette McGarva made a point about best practice and good practice. How is that shared across local authorities and what evidence have we got about how other organisations—public bodies—that are also covered by this legislation engage with communities and share best practice or good practice?

10:15

Colette McGarva: All the community planning partners should be aware of their performance management frameworks and reporting mechanisms for scrutiny. For example, there are tools and resources from Audit Scotland and frameworks such as how good is our council and how good is our community engagement. The frameworks exist to support community planning partners to ensure that they involve communities in decision-making processes.

We in community development often work with people who perhaps do not have a background in working with communities. Community planning

partners perhaps need to start to look to our organisations more for support and assistance. The way that we see it is: the broader the range of stakeholders, the better the outcome. For example, a co-production model of partnership could bring in partners who would not necessarily have been considered initially. That is why it is important that all the key stakeholders are involved at the beginning of any process.

Sarah Boyack: Does any other witness want to comment on the sharing of best practice between public bodies? Last week, we focused a lot on local government, but what about other public bodies? Do we have evidence that they are engaging with the legislation and delivering it?

Douglas Westwater: We probably need to shine a light on that work. There is a large number of good-quality case studies. We have worked on projects with Police Scotland and Forestry and Land Scotland and, in the past few weeks, we have worked on three projects with the national health service. There is a huge amount of data. As Calum MacLeod mentioned, Community Land Scotland holds a lot of data, as does the Scottish land fund and the community ownership support service. There will be a lot of examples but, to be honest, I do not think that an impact assessment has been carried out. There is still a job to be done to shine a light on some of those case studies.

Sarah Boyack: I have focused so far on local authorities and public bodies, but what evidence do you have about the extent to which communities understand their rights under the legislation? It has been there for five years now. How are communities using their rights with regard to participation requests and asset transfers?

One issue that has come up in oral evidence and in the written evidence that we have received is about inequalities. In answer to the first question, I think that Calum MacLeod said that the purpose of the legislation was to reduce inequalities. Do we have evidence of that happening in practice? Are the people who we would like to get involved using the powers in the act?

Dr MacLeod: The short answer is that we do not have a systematic evidence base at the moment. Certainly, we need to consolidate and develop the evidence base because, as you say, one of the prime drivers—if not the prime driver—for the legislation was to reduce inequalities. There is a conception that, inevitably, it will be better-resourced communities that gravitate towards using the mechanisms such as the community asset transfer scheme—CATS—because they have capacity to do so. However, I am not sure that that is necessarily the case. It would be interesting to see a socioeconomic analysis of the applications that have come

through the Scottish land fund and in other areas. That work should be done as a matter of urgency, because that will give us a clear understanding of how the legislation is working in practice.

In partnership with the Scottish Government and others, we are engaged in an urban community ownership hub. That is designed to provide support to and engage with communities, and to carry out action-based research in order to identify barriers and look at ways in which those processes can be improved specifically for urban communities in this context.

Sarah Boyack: I think that Angus Hardie wants to come in.

Angus Hardie: Yes—thank you. I am not sure whether communities have got a good sense of the potential opportunities that the 2015 act provides—it is difficult to read.

Whenever communities are asked whether they feel engaged in the processes, the evidence seems to suggest that they do not. Not long after the 2015 act came into being, the Electoral Reform Society did some fairly extensive research, which seemed to suggest that three quarters of Scots felt that they had little influence on the decisions of their local council. More recently, we had the democracy matters conversation as part of the local governance review. Again, there was a clear expression of desire to be more engaged in decisions but a frustration with the current arrangements. That seems to suggest that an awareness of participation requests as a means of engaging in the processes that local councils and other public bodies are involved in perhaps has not resonated with communities.

As I understand it, fewer than 50 participation requests have been made. That suggests something. However, it may be too early to judge. The guidance has not been out for that long. It might be they are too complex or that there is not much of an appetite for them; it might just be that there is no awareness of them.

I remember when the Land Reform (Scotland) Act 2003 was published. One of the criticisms was that, although significant investment was put into promoting the access rights—the right to roam—little attention was given to promoting part of the legislation on the community right to buy. Therefore, how we communicate those opportunities is very much an issue. The general public do not follow the Government's legislative programme, so the measures need to be made available and communicated in ways that people can make sense of.

There is definitely a communication issue and, in that sense, participation requests have perhaps not been fully tested.

Sarah Boyack: That is useful feedback. Is there a difference between the use of participation requests and asset transfers? Is there a breakdown between urban and rural areas? Is there evidence of areas using the legislation differently?

You mentioned land transfer, which is something that rural communities did. Is there expertise in using the legislation, or is there an issue about there not being enough knowledge? Are there lessons that we can learn and feed back in order to make the 2015 act more effective? Does anyone have a comment on that?

Angus Hardie: There is more awareness of asset transfer in the sector and the appetite for such activity is definitely more vigorous. That is partly because of the ecosystem of support that has built up in the sector.

Last week, the committee heard from the Community Ownership Support Service and the Development Trusts Association Scotland. They have spent a lot of time building up that resource, pushing out information and whetting the appetite of the sector; other organisations, such as Community Land Scotland, have focused very much on that.

It is not purely for the public sector to promote the opportunities. We have taken that on as well. One of the things that my organisation does is to run a learning exchange, which is a peer-to-peer exchange that tells the stories of what is happening and tries to share good practice.

Asset transfer seems to be much more vibrant, although, having said that, there are issues with it. Maybe we will discuss those later in the meeting.

The Convener: I apologise to Colette McGarva, but we have to move on.

Alexander Stewart (Mid Scotland and Fife) (Con): Good morning, panel. Some concerns have been expressed about the capacity and the confidence that communities have, especially where they feel less empowered and maybe marginalised. Are such communities having difficulties when it comes to participation requests and asset transfers? What more can be done to build their capacity and confidence?

Douglas Westwater: That is a really interesting question. We are more of a support agency, so we work directly with organisations all over Scotland. We work with approximately 300 groups a year. We have had dozens of expressions of interest in asset transfer—there is huge interest in that—but we have had no requests for support with participation requests, even though we mention that opportunity as we go around. That gives you an indication of the interest out there.

Your question about capacity is a significant one. As Angus Hardie noted earlier—and also, I think, Calum MacLeod—organisations in areas that have higher capacity, which tend to be areas with less relevant deprivation, are able to navigate community asset transfers in particular much more quickly and easily. The process can be very different depending on whether the organisation involved is a local authority, Forestry and Land Scotland or whoever. It can also depend on the relationship between the owner and the purchaser. However, our experience has certainly been that communities with lower capacity will really struggle and need significant amounts of support.

As Angus Hardie mentioned, things such as COSS have been crucial. There is an infrastructure out there, but there are absolutely differences between areas in their ability to tap into and use the powers.

Dr MacLeod: [*Inaudible.*—what Douglas Westwater has been saying, but I add that, if we are going to engage with more disadvantaged communities, we need to commit the resources and make the support available to enable them to take up the opportunities. There is a lot of will and enthusiasm in communities to engage with the legislation and the powers, but communities sometimes need development support in order to do that.

There has been a retrenchment and a move away from some of that localised development support, but it is really important. Resources willing, of course, we need to take a more targeted strategic approach in order to enable disadvantaged communities to engage and benefit from the opportunities that arise. We have seen it work well in many communities. We just need to take it forward strategically.

Colette McGarva: I think we all agree with that. To me, the Community Empowerment (Scotland) Act 2015 should be seen in conjunction with the Equality Act 2010 because, traditionally, it has been under that act that we have had community development staff in Scottish index of multiple deprivation areas, and it has been demonstrated that that has supported communities to build resilience and confidence.

Angus Hardie: Over the past 20 years or so, there has been a real shift in how we, as a country, support communities. Back in the day, there used to be an army of community education workers, or community learning and development workers, as they became.

10:30

A lot of the long-term support that used to sit alongside communities has gone as a result of austerity and general cuts to local authority

budgets over the years. We have gone from that to a situation in which we have national resources such as COSS and the ecosystem of support that I referred to earlier—the networks that support communities—but that is a different sort of support.

Colette McGarva mentioned the community anchor organisations and the role that they have played around Covid, which has been much praised, but those organisations, such as development trusts and the like, take a long time—sometimes 10, 15 or 20 years—to develop. My concern is that, without that slow-burn support, the areas of greatest disadvantage that do not have such support are likely to fall further behind. Therefore, we have to consider some sort of compensatory measures to address that.

Alexander Stewart: To follow on from that, we have also heard evidence of real concerns about public bodies not publishing reports on participation requests and asset transfer. Has that been your experience? Have you looked into the matter only to find that bodies are not publishing reports on participation requests and asset transfer?

Dr MacLeod: The data absolutely indicates that that is the case. As I said, the figure of 64 per cent returns in the first year, which was 2017-18, dropped to 43 per cent in the next year. That indicates clearly that something is not working effectively in the implementation of that really important aspect of transparency in the system and process to enable the system to work effectively.

It is important to address that. I will not put it any more strongly than this, but the situation indicates that there is a set of challenges and issues. Some of those might be cultural, some might be about understanding and some might be around resources, but they are acting as barriers to enabling key aspects of the legislation to work effectively in practice.

We need some way to encourage public bodies to undertake what is after all a duty to produce those reports. As I think came up in the committee's evidence session last week, public bodies need to be clear about the type of information that is presented and how it is presented, so that there is consistency in that regard. We also need better traction in terms of the cultural issues around the relationship between communities and public authorities with regard to community empowerment, so that communities can take that fully engaged role in shaping their places. There are clear gaps, and I am sure that all the witnesses today have anecdotal evidence of challenges in that respect.

There is a whole set of issues around implementation that need to be addressed. There is also need for a bit of modification of some of the legislative dimensions, which we might come on to.

Colette McGarva: To add to Calum MacLeod's point, I say that the approach is variable at a regional level, because some regions have asset transfer policies and community engagement strategies but others do not. That is, obviously, part of the reason why the situation is so variable. A potential solution to that would be essential management modules for senior managers and heads of service.

Gail Ross (Caithness, Sutherland and Ross) (SNP): I will follow on from Alexander Stewart's line of questioning about public authorities.

Last week, the committee heard a lot of evidence about community groups that had made successful participation requests or asset transfer requests. However, we do not really know why some applications have not been successful, why community groups may have looked into it but did not pursue it or about informal approaches to officers that have not been written down or reported. Do you have any evidence of applications to public authorities that have failed or not gone ahead, or of a public authority—deliberately or otherwise—making it difficult for groups to succeed in applications? That question is for any witness.

Angus Hardie: I do not have evidence about informal approaches, because they are, inevitably, beneath the radar and we do not see them.

As I think Linda Gillespie from COSS touched on last week, it is interesting, in the way in which asset transfer requests are being received and interpreted, that communities are looking for ownership of an asset to be transferred to them but—I do not have numbers; this is anecdotal—there has been a shift towards offering them leases rather than a transfer of ownership.

That reflects, as much as anything, a lack of confidence in the ability of communities to manage and own assets. Anecdotally, again, public bodies are thinking, "What happens if it all goes wrong? We will just be left to pick up the pieces." However, so far, although there must have been one or two failed assets that communities have taken on board, I think that they could be counted literally on the fingers of one hand.

That reflects a mindset and culture, which we need to tackle somehow, that transferring an asset is seen as a disposal—a diminution of the crown jewels—rather than as a public investment in community wellbeing. There is not full appreciation of the added value of transferring an asset.

That also applies to transfer of an asset at less than market value. That is another revealing aspect. Local authorities and public bodies can transfer assets at less than market value, but tend to hide behind the yellow book, or whatever the regulations are. If there was a recognition of the non-monetary value—the intangible benefits—of transferring an asset, that would reflect that we are all more on the same page; it seems to me that we are not on the same page. It speaks to the need for culture change, rather than anything else.

Douglas Westwater: There have been a lot of questions about evidence. To be honest, a lot of it is anecdotal, just now. We certainly have quite a significant number of stories of organisations that are really struggling to secure the asset in which they are interested. Increasingly, the trajectory is away from supportive transfer towards putting communities through the wringer when it comes to getting the assets.

Eligibility under the 2015 act has been increasingly strictly implemented, which has forced people to make lots of minor legal changes to their memorandum and articles of association before they are allowed to proceed. There is a lot of questioning of their capacity to keep things financially sustainable—which is ironic because, often, the council has been unable to do so and the asset is already closed.

There can be a real and legitimate concern around post-acquisition funding. People are asked a lot of very difficult questions about that. Recently, for example—I will not name and shame—an organisation that is entirely volunteer-led has been forced to put together a detailed economic impact assessment, in financial terms, of exactly how much money will be saved by the public body if it deigns to transfer the asset.

We have seen fabulous examples in some areas where authorities have been incredibly supportive, so I am certainly not saying that such things are exclusively what is happening. However, increasingly, authorities are not terribly supportive of communities in helping them to get assets and have been quite combative rather than collaborative.

Dr MacLeod: There are real challenges, some of which have been mentioned already. This is all anecdotal, of course, but there is evidence that some public authorities are not using the formal CAT process and are doing negotiations outwith it. In those instances, they are not offering any discount whatsoever to organisations, which can be problematic.

There is an issue around the assets that can come within the reach of the legislation. I think that there have been issues around the arm's-length external organisations that local authorities use. I

am not going to put it any stronger than this, but there is an issue around what assets are within those structures and why, and why they are not eligible in the context of the spirit and letter of the legislation.

There are issues regarding some of the conditions that are being put on communities in the formal process. Those issues include the clawback dimension, which can—again, this is anecdotal—exceed the value of the discount, pre-emption for buy-back and timescales and the length of time that conditions can last, which can be well beyond five years in many instances.

There is a specific issue around the process element, which needs to be thought through in more detail. There is no timescale for the period between the asset request being made and the validation of that request. As I understand it, there is a timescale beyond the validation of the asset transfer request and the decision-making process, but there is no timescale set out in the legislation for when the validation process has to be completed once a request is made by a community. In theory, and potentially in practice, that could enable a public authority, should it be so minded, to stymie the process by lengthening it to an inordinate amount of time. If that process goes well over the horizon, that could drain the capacity and will of a community to take forward the request.

A whole bunch of issues need to be addressed in terms of the culture aspects and some of the technical aspects of the process.

Gail Ross: Those answers were really interesting. The Scottish Community Alliance submission talks about

“trial and error, an appetite for risk, an acceptance of failure and a willingness to learn.”

It also mentions

“appropriate support and further enabling legislation from Scottish Government”.

Given what we heard in response to my last question, it is obvious that there are some improvements that can be made. Do they need to be made to the legislation as it stands or is further legislation needed to address the issues that have just been mentioned?

Angus Hardie: I am in two minds about that. Should we continue down the road of trying to finesse the existing community empowerment legislation and try to get around the problems?

In the community empowerment debate, there is an assumption that somehow it is the communities that need to be helped to engage and participate more effectively in all the structures and processes that pass for local governance, and that there is a deficit in the capacity of communities that we

somehow need to fix, and perhaps we can fix that through new legislation or enhancing existing legislation. I just wonder whether we will eventually get to the point where we have exhausted that argument and what we need to do instead is to take a much closer look at the arrangements themselves and think about how well they are functioning in relation to communities. It is not about the communities; it is about the arrangements that we have with them. We should have systems of local governance that sit much closer to communities and are much easier to engage with and participate in. It is about asking whether we are done with focusing on communities, and we should move on to another frame of reference.

10:45

I was pleased to note that the programme for government refers to the continuing work around the local governance review and the need to explore new tiers of local democracy.

Andy Wightman (Lothian) (Green): I notice from the Scottish household survey that was published yesterday that, in 2019, the percentage of people who agreed with the statement, “I can influence decisions affecting my local area” was 17.8 per cent. That is the lowest out of all the reported figures from previous years in the spreadsheet. Back in 2007, it was 19.6 per cent. Only in two years, 2007 and 2019, has it been below 20 per cent. Since the 2015 act came in, it has been 23.6 per cent, 23.1 per cent, 22.7 per cent, 20.1 per cent, and 17.8 per cent. That is a substantial downward trajectory in the number of people who feel that they have any influence over the decisions that are made in their local area.

Angus Hardie has just speculated on whether it is time to move to the other side of the equation, as it were, which is the arrangements that are already in place to govern communities in terms of local democracy. We will not fix the problem while we are trying to strengthen what is a fairly weak system of local governance, particularly compared with the systems of many other European countries, where communes and municipalities have been in place for, in some cases, centuries and they do this thing as a matter of course. Because there is a formal structure, there is much more effective democratic participation.

Do any of the witnesses wish to comment on that, and particularly on the findings of the household survey?

Colette McGarva: The fact that we are going back to the locality planning models is, in some respects, a good thing, as is the fact that some regions have been using the place standard tool, for example.

However, for a lot of communities there is a lack of follow-through, and a lack of implementation of what they are telling us. Communities might therefore feel involved in decision making, but a lot of communities that we work with are talking about the action side. Perhaps they have had their voices heard but it is about the follow-through and saying that we need to divert budgets to where the communities are saying they really want things to improve. Of course, communities also want to be key partners in that.

The thing about structures at a regional level is that the voluntary sector and communities are equal partners within those structures.

Angus Hardie: I have not seen the Scottish household survey numbers, and when I looked at the Electoral Reform Society's research, I thought that it was about four or five years out of date. I thought that perhaps the community empowerment legislation would begin to make inroads to that, but it sounds as though it has not.

Increasingly, I am left thinking that the debate around how we make community empowerment more effective is a proxy for a debate about how we make local democracy more effective.

I have been—and hope to continue to be—part of the “democracy matters” conversations; there is potential for innovation between our existing centralised system of local governance and communities, although I do not know whether there is an appetite for a new organisation. All the things that we have been talking about—such as community land, development trusts and community anchor organisations—have stepped in to fill the vacuum that has existed for many years in local democracy. In Scotland, we have a very strong community sector, but there is definitely a missing link between all the elements and, somehow, we must explore how we could innovate.

I am not sure that we should go back to the old burgh council model, but perhaps we can have something that is more fit for the 21st century—a more deliberative, participatory and representative hybrid of all the democratic aspirations that we have. I know that a lot of conversations about that are going on at the moment, and we are trying out the Citizens' Assembly of Scotland, which is producing interesting results. We are at an interesting time in Scotland and we need to be open to new ideas.

The Convener: Calum MacLeod wants to come in.

Dr MacLeod: Thank you; I will comment briefly. We could have a three-day conference on the role of the state, public authorities and communities in relation to local democracy. However, I agree with Angus Hardie that, for all the reasons that we are

familiar with, such as the post-pandemic recovery and the climate emergency, we are at a point where we need to think about how we renew our democratic structures and locate power and empowerment within communities, so that the trends that Andy Wightman identified in the household survey move in a more positive direction. Part of that needs to be about all the things that my colleagues on the panel have mentioned, but it also needs to be about connecting different structures more cohesively.

Last year, this committee spent a long time discussing the Planning (Scotland) Bill. One example of that discussion is thinking about how we might make communities feel more empowered in decision-making processes. Where can such things as local place plans sit in relation to that work and how do they plug into other dimensions of decision making? Community organisations, such as community trusts, should reflect the views of the collective, so that they shape and determine what is happening in their areas with regard to the type of services that are provided, how they are provided and who benefits from them. There is a huge amount to untangle; once we have done that, there is also a lot to connect up.

The Convener: Andy, if you have another question, you should move on to that.

Andy Wightman: Thank you. Calum, that is an interesting observation about joining up existing pieces of legislation.

I will ask a question about governance. All the witnesses are here to represent organisations that represent organisations that have members. The typical set-up for an asset transfer is—as the act stipulates—that the organisation has to set up a corporate entity, which has to have members. It is all very well for us to hear reports about successful asset transfers, but how much democracy and participation sits behind the corporate entities at community level? In other words, how many members do they have, how many people turn up at annual general meetings and how competitive is the election process for board members? Do we have any sight of that?

Douglas Westwater: Having been involved with communities for 25 to 30 years and been passionate about them, I wish that I was not going to say this, but the figures that you laid out do not surprise me much. There are huge amounts to be encouraged about in communities, but in relation to the whole population, the numbers of people who are involved are vanishingly small. Lots of people in communities are very disengaged.

We work with astonishing people, who do amazing things and work amazingly long hours in communities, but we find almost exclusively that

they are few in number. We go to meetings across the country, and one of the first things that people say to us is, “We’re really sorry—there is quite a lot of apathy in this community, so you’ll struggle to get people involved.” It probably goes back to our democracy, because if people feel that decision making is distant, they get on with their family lives and get less engaged in broad community activity. We find that organisations struggle to get members and board members. We need to have a big discussion around root-and-branch changes to that situation.

Dr MacLeod: Douglas Westwater is absolutely right: there are challenges. In some instances, the same people wear different hats for the many roles that they have taken on. However, there is a flipside. If we tap into the potential and see where the opportunities are, we can get that cultural shift. I am not suggesting that that will be widespread and all encompassing, but I will give one example.

I live in Glasgow, but I am originally from the Western Isles—the Outer Hebrides. As many people know, that is a heartland of community landownership, where communities have taken possession and ownership of estates and land that they live on. That has had a catalytic impact on the way that that sort of relationship is viewed—what they have done has become the norm. Challenging though the process can be—I am not downplaying the challenges—when people see the success factor that can happen within that context, it can inspire them to think about that as a more normalised way of doing things.

In the evidence session last week, Louisa Macdonell from DTAS mentioned the upsurge in volunteering that has happened because of the pandemic, and how, post-pandemic, we hope to harness that and ensure that that level of engagement continues. There is a challenge but there are also opportunities, and I have seen evidence of that in practice.

Keith Brown (Clackmannanshire and Dunblane) (SNP): My questions will follow on from the previous discussion. In the couple of decades that I was involved in local government, we saw a lot of changes. To go back to the point about local democracy, we had initiatives such as participatory budgeting, community planning and an increase in community councils’ powers, although, when asked, they refused to take on service provider roles.

With regard to the previous discussion, is any panel member able to say where the great unmet demand for more local democracy or engagement lies? My experience is like what has been described, in that I have found that it is difficult to get people to get involved in things, unless there is a planning application that directly affects them. As was suggested by the previous line of

questioning, is there is huge unmet demand for more local democracy and engagement, which the community empowerment process is not tapping into?

Angus Hardie: That is a chicken-and-egg question. People do not get involved when they feel distant from action that is inaccessible. I live in Leith, where the Save Leith Walk campaign was launched. The campaign was about a building that was going to be demolished and turned into more student flats; it was not a very attractive building, but somehow it galvanised people. Hundreds of local people got actively involved: they were out in the street, they went to packed public meetings and they manned stalls down Leith Walk on a Saturday. I think that people care about their communities and, given the opportunity, context and structures to do so, they want to be involved. I was fascinated by that campaign, because it was just about saving a pretty shabby building on Leith Walk, but somehow people felt that it was their community that was getting destroyed, and they took action.

Rather than draw other conclusions from the fact that, in the normal run of events, very few people become actively involved in their community or community council, I think that happens because we are not presenting them with sufficient opportunity.

11:00

Douglas Westwater: I want to clarify my last point, which sounded negative but was not meant to be. Although it is a struggle to get people to become members or go on boards, they are getting involved in different ways. People often do not want to join things, but that does not mean that they do not get involved.

Although it is not directly to do with community empowerment, one example is the upsurge in use of community shares, which we have seen a lot. As soon as people own shares in a community shop or pub, that place becomes successful because people feel that it is theirs. There is a sense of ownership.

There are different ways to encourage engagement that do not involve worrying too much about numbers of members and how many people are on a board. It can be more fluid than that. Angus Hardie gave one example, and Midsteeple Quarter in Dumfries is another. Although they might not involve members or board members, there are a number of positive examples of people being involved.

Colette McGarva: I will add to that point. From my involvement in supporting communities—particularly in SIMD areas—through the democracy matters process, I know that people

absolutely want to be involved and have their say, but the issue is about balancing the risk and responsibility for communities. We need effective partnerships and the right people around the table in order to pick up the various strands, because, in some areas, communities cannot do it all on their own.

Keith Brown: Maybe it is just the lack of opportunities, but I see opportunity after opportunity for more community engagement being provided and the engagement not following. Maybe it is not being done in the right way. It would be interesting to explore that.

I am aware of the campaign in Leith, as I am a frequent visitor to a specialist shop at the bottom of Leith Walk. It was a very good campaign and, as Angus Hardie said, it attracted a lot of people. That was the point that I was making—we tend to get engagement if there is a planning application or something that really touches the local community, but more broad-based engagement is difficult to achieve.

Angus Hardie gave a good example of something that I am keen to hear other panel members talk about. I am aware that, right through this inquiry, we have struggled to identify measures and define community empowerment. Are members of the panel aware of a really good example—anywhere in Scotland—of a community that has been empowered by taking action in the various ways that are permissible under the 2015 act?

Douglas Westwater: Goodness! There are many examples all over the country. I do not know how long you have, but I could be here for the next few hours, reeling off examples from Shetland all the way to the Borders.

We work with an organisation in Nesting in Shetland, which is a very rural area. It was one of those places with no school—the school had closed a while ago—no shop and no post office, and although there was a great wee community, there were no physical facilities. The organisation took over the relatively derelict school, through the first asset transfer using the 2015 act in Shetland, and it has now developed links. It is using Up Helly Aa as a focus and has developed a wood workshop to build the boat right through the winter, as a way of teaching woodwork skills and bringing the community together. It has developed a gym to improve health and it is developing a childcare facility to help people get to work. There are lots of fantastic examples; that is a very rural example.

We are doing lots of work in north Edinburgh. North Edinburgh Arts is seeking to take over its assets, and Fresh Start is developing a new asset up there to help people who have been newly housed in the community. That is about people

being aware that new entrants need to merge and settle into the community, so the organisation encourages them to join, volunteer and mix with people, and a community kitchen has opened. There are lots of amazing examples all over the place, of which those are just two.

Angus Hardie: It is a good question. What do we mean by community empowerment? What would be the indicators of a good example of community empowerment? I do not think that we have taken sufficient time to think about that or define it. As Douglas Westwater described, there are stacks of examples of communities doing stuff and, through Covid, we have seen amazing examples of communities coming together and producing necessary responses to the emergency that we faced.

I wonder what we are looking to achieve out of community empowerment. I sometimes describe it as a capacity for dissent. Is a community prepared to stand up and say no to funding from the local authority or Government because of a belief or because it wants to take a different path from the local authority? Do we want to have the kind of vibrant democracy and society where communities are not feared to say whatever they want to say and are not cowed by a funding arrangement? I think that an empowered community is one that is not frightened to say no.

Keith Brown: Can you name one? Is there one that springs to mind?

Angus Hardie: I knew that you were going to say that as soon as I said it. I will have to come back to you on that.

The Convener: Feel free to write to the committee.

Annie Wells (Glasgow) (Con): Good morning, panel. One of the recommendations from the Glasgow Caledonian University report was that the Government should explore an appeals process in relation to part 3 of the 2015 act, particularly for cases in which collaboration between public authorities and community groups is not healthy or is antagonistic. What are the panel members' views on that? If you believe that there should be an appeals process, who should head it up?

Calum MacLeod: I do not have a strong or informative view about who should head up the appeals process, but I support having an appeals process in place for that part of the act. Correct me if I am wrong, but I understand that that was the intention of Parliament when the legislation was going through, so I am not clear why such a process does not exist.

Colette McGarva: We agree that there should be an appeals process. What springs to mind is that whoever heads it up should have good

mediation and communication skills. For us, that would automatically be someone with a community development perspective, so the Scottish Community Development Centre or another organisation could head it up.

Angus Hardie: If the relationship has broken down and the negotiation has not progressed as it might, having an appeal to ministers—which has been the default in other legislation—does not seem very positive. I favour an independent ombudsman, because that would allow the governance of Scotland, if you like, to be more equal. If something does not work out locally, we have to go to national Government for the answer—somehow, we need to rebalance that. In this small area of appeals, it would help to have an independent, external ombudsman service.

Annie Wells: Last week, we heard about the idea of having a named community empowerment contact or champion in each public authority, especially in authorities that are sometimes hostile or obstructive, as Gail Ross touched on. What are your views on that recommendation?

Calum MacLeod: That would be a really important recommendation to implement. Just from a practical perspective, there is a need for a named contact in public authorities to act as a gatekeeper and point of contact. However, it goes much wider than that. The named contact needs to have sufficient status and seniority to push the issue through public authorities. Evidence has been recounted of a cultural, institutional element in making sure that public authorities engage proactively and cohesively with the legislation. A point of contact is important, but the approach needs to bridge into a much broader, institutional or corporate cultural change on the part of public authorities to ensure that they are engaging effectively.

The point about hostility and conflict is important. I am not suggesting that they are systemic or apply across the board, but we hear about those elements coming through. Coincidentally, at a conference I heard a senior, director-level individual in a local authority talking about planning policy. They made the point that the local authority needs to be sure that it is able to defend itself from community requests for assets. I found that to be a surprising and disappointing comment. That is anecdotal, but it points to evidence of our need for that cultural change. In terms of public authorities' infrastructure, we need contact points, but they must lead to that wider-scale culture change by public authorities that is needed to enable them to work effectively with the legislation. The ethos of community empowerment is important in relation to that.

Colette McGarva: I agree that such contacts are a good idea, but some community planning partnerships had community champions, and it could be argued that those roles were tokenistic. For us, it would need to be someone in a senior position—ideally, a head of service who has a background in and understanding of community empowerment. In my experience, senior heads of service from housing and social work often have a good understanding of empowerment and community development.

11:15

Annie Wells: I have one more question. In its submission, the Scottish Community Alliance said that community empowerment is best understood as a journey “to be travelled”. Where are we on that journey and what does the final destination look like?

Angus Hardie: Given that I sent the submission, I had better answer the question, but it was not my quote; Alex Neil said it at the launch of the community empowerment action plan more than 10 years ago, so it has already been a long journey. I suppose that it goes back to my earlier point about whether the journey will take us to the place that we want to get to.

With regard to your previous question about whether it would help to have an officer in the local authority who would be responsible for this work, it comes down to an issue of scale. An officer in a local authority in an area such as Edinburgh, where I live, would be a drop in the ocean and would be lost. However, if we had an assembly in Leith—I do not know why I am focusing so much on home at the moment—as a local resident, I would know who the people were. That becomes more manageable and the relationships become more immediate, intimate, personal and human. Fundamentally, it is about scale.

Douglas Westwater: I will pick up Angus Hardie's point about scale. That is certainly what we see. We are involved in a lot of asset transfers. The vast majority of communities have one asset in their area that they own, but there are hundreds of other assets that they do not control. There is a village in a fairly rural area in Aberdeenshire where the community owns the school, a heritage centre, two other buildings and a community forest. The scale of asset ownership in that area means that the community is pretty much in control; it is a key player in the area.

If there is an end to the journey—in terms of asset transfer, rather than participation requests—it is about scale. As soon as a community owns the swimming pool, the library, the community centre and the shop, the community starts to

change. If there is an end to the journey, in simple terms, it is about the number of assets transferred.

Annie Wells: Thank you.

The Convener: I have a couple of questions for Colette McGarva. The Community Development Alliance Scotland submission highlighted the risk posed by asset transfers, in the sense that communities could find themselves with a liability rather than an asset. What are the alternatives to ownership of assets? How would they empower communities?

Colette McGarva: Community groups and voluntary sector organisations can take on community centres leases, for example. However, because of Covid-19, community centres are closed, so there is a lack of revenue for those community associations. In some respects, that puts them at risk and, depending on their governance structures, there is personal liability at an individual level. In community development, we always take the view that we have a duty of care—a duty to protect members of the public as well as to support them in driving forward if they want to take on physical assets as far as purchase. On leasing, I have given an example of where having the lease of a community centre puts individuals and community groups at risk.

The Convener: Okay, but even if a group had a lease, would individuals not still be liable for shortfalls? You use the example of Covid, but how does a group having the lease differ from its having ownership of the community centre?

Colette McGarva: Community associations that lease community centres have limited risk compared to those that purchase a building. You could argue that there is a bit more risk related to ownership of a building, but ownership is what some communities want, whereas others would prefer to lease a building, because of the risk and cost factors associated with ownership.

The Convener: I have one final question, then my colleague Gail Ross will ask a question.

You say that some communities might

“feel coerced into taking on physical assets”.

Do you have any evidence of that?

Colette McGarva: We have looked at various buildings with different community organisations, and we have seen that the issue is about potentially giving them options appraisals and supporting them through that process, so that they can make informed decisions about what is best and appropriate for them. There is a duty of care, but also a duty to support organisations through the process, if that is what they decide that they want to do. In my experience, I have always found that options appraisals are a good method of

supporting communities to come to a final conclusion.

The Convener: We heard about some local authorities being obstructive, and there is now a suggestion that they might be coercive. How do those two things marry? Which local authorities we are talking about? Which ones are being more obstructive? Which ones are saying, “We’re not going to give you the opportunity to lease. If you want that building, you’ll have to buy it”?

Colette McGarva: It varies from region to region. In some regions, local authorities have buildings that they want to dispose of. The issue is about how community groups are supported through that process and whether voluntary sector organisations and communities want to take on physical assets. There is a fine balance.

From our perspective—from the community development perspective—the issue is always about improving the process so that it is in the best interests of communities and the public.

Gail Ross: My question is also for Colette McGarva, and is about capacity building and confidence building. You mentioned participatory budgeting. We have done that really successfully in Caithness for a number of years now. However, we have only used discretionary budgets; we have not gone any further with local authority budgets. How do you see participatory budgeting working? It really builds capacity in communities, and the networking opportunities that it gives community groups are really positive. If we were to widen that out to other local authority budgets, how would it work, especially with a massive local authority such as Highland, which has different area committees? Should participatory budgeting applying to specific aspects of the budget, or should it apply to the overall budget?

Colette McGarva: In Scotland, we are making good progress with participatory budgeting. The PB Scotland website has lots of good resources and tools. Again, it is about learning from examples of good practice. In Paris, for example, there have been huge capital-spend PB exercises. As we progress with PB, we could certainly consider capital budgets. There is a potential link to flexibility in community planning budgets, which could be diverted into local place plans or work on the environment, for example.

PB methodology is seen as an example of good practice globally, so it is great that we have embraced it in Scotland. There are lots of organisations that can support different regions through that process.

Sarah Boyack: We have focused quite a lot on local government and different ways of empowering communities and changing culture and structures, but we have not touched much on

all the organisations that are listed in schedules 2 and 3 to the 2015 act—the relevant bodies that community organisations can engage with, whether on participation requests or asset transfers.

Does anyone want to comment on the culture in those organisations and whether they have been really involved in participation requests, asset transfers or thinking differently with communities? I am thinking of organisations such as the national parks, health boards, NatureScot and Scottish Water—there are now quite a lot of organisations that communities can work with.

Dr MacLeod: My personal experience has been with Forestry and Land Scotland. From memory, I think that 10 or more community asset transfers have gone through its scheme. My broad understanding is that a reasonably progressive approach has been taken there. I took some soundings from a colleague who is more familiar with that process and the national forest land transfer scheme—I may have the terminology wrong—that predated it, and they indicated that the previous process seemed slightly more flexible. However, on the whole, most communities that have engaged with the new process have found it to be a broadly positive experience.

As you say, there is a range of public authorities beyond local authorities—important though they are—that should be and are engaging with the whole process. If we are talking about a journey towards community empowerment, I do not think that the journey ever ends. It needs to encompass a range of community and public benefits. Land assets—forests, woodlands and so on—can provide multiple social, economic and environmental benefits to communities and, more broadly, to Scotland as a whole. Marrying all those together is a critical part of the whole process.

Sarah Boyack: Does the guidance from the Scottish Government need to be stronger, or is the issue more about culture and giving the implementation of the 2015 act a bit more time?

Dr MacLeod: It has been a relatively short period since the legislation came into force, so there is a longitudinal element to consider, as well as a cultural aspect. There needs to be clarity in guidance. There needs to be guidance around some of the conditionality—that is a hideous bit of jargon; I mean the conditions that are applied to asset transfer requests in practice. As I mentioned, some significant aspects need to be addressed. There is probably a need to refresh or hone the guidance and sharpen it up a little bit, but there is a cultural element, too.

Let us not forget that there are duties. The reporting element for public authorities is a duty and a requirement. There is scope to explore how

to encourage public authorities to do that more fulsomely or comprehensively.

The Convener: That completes our questions and concludes this evidence session. I thank you all for taking part in the meeting and helping us to identify some key issues for the rest of the inquiry. We will resume our scrutiny after the October recess.

11:29

Meeting continued in private until 11:56.

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